



International
Labour
Office



THE STATE OF APPLICATION OF THE PROVISIONS
FOR SOCIAL SECURITY OF THE INTERNATIONAL
TREATIES ON SOCIAL RIGHTS RATIFIED BY

Belgium

ILO
TECHNICAL
NOTE

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Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

List of international abbreviations:

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

National abbreviations:

VDAB	Flemish Employment and Vocational Training Service
CPAS	Public social welfare centres
FIDH	International Federation for Human Rights
ADIL	The removal and rent allowance

*CHAPTER I. Adequacy of social security
benefits: income and poverty indicators and
standards*

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Country profile by Eurostat indicators, National indicators and ILO minimum standards

<u>Eurostat</u>	EU-Avg 2013	2005	2012	2013	2014
At-risk-of-poverty threshold (40%, single person)	€ 462.3	€ 552.6	€ 676.0	€ 716.1	€ 723.5
At-risk-of-poverty threshold (50%, single person)	€ 577.8	€ 690.8	€ 845.0	€ 895.1	€ 904.3
At-risk-of-poverty rate - 50%, before social transfers	19.5%	21.6%	21.1%	19.5%	21.1%
At-risk-of-poverty rate - 50%, after social transfers	10.2%	7.7%	8.3%	8.3%	8.6%
At-risk-of-poverty rate for children under 18 y.o. - 50% thrd	12.4%	9.3%	10.0%	10.1%	10.8%
In-work poverty rate - 50% threshold	5.2%	2.1%	2.2%	2.1%	2.4%
At-risk-of-poverty rate for pensioners - 50% threshold	6.0%	8.3%	6.8%	4.8%	5.1%
Aggregate replacement ratio	55%	42%	46%	47%	47%
Severe material deprivation (% of total population)	9.6%	6.5%	6.3%	5.1%	5.9%
Persistent at-risk-of-poverty rate - 50% threshold	5.2%		4.2%	3.7%	5.3%
Social protection expenditure as % of GDP	25.0%	27.5%	30.8%	30.9%	
Gini coefficient before social transfers	36.1%	37.7%	35.1%	34.0%	34.5%
Gini coefficient after social transfers	30.5%	28.0%	26.5%	25.9%	25.9%

<u>National indicators</u>		
Minimum guaranteed income	€ 817.4	2013, Federal Social Integration Service - SPP Intégration sociale
Minimum wage	€ 1501.8	2013, Public Federal Service for Employment and Social Dialogue
Minimum pension	€ 1011.7	2013, National Office for Pensions
Average wage	€ 3258.0	2012, Belgian Statistical Service
Average pension	€ 1290.0	2007, Centre for Political Research, retirement for Sociological Research, Catholic University of Louvain for the FPS Social Security

<u>Government Report under the ECSS submitted in 2015</u>			
Standard benefits amounts to be provided in the detailed report 2016. The Office refers to the Government Report under the ECSS submitted in 2011 :			
Reference wage (skilled worker)	Article 65-6b: Skilled male employee in construction	€ 2565.8	2009
Standard old-age pension	<u>Skilled worker</u>	€ 1223.5	2009
Replacement rate Man with wife of pensionable age	Including benefit for wife (€ 49.6) and pension supplement (€ 405.9), total amount of benefit is € 1240.3	48.0%	2009

Fig. 1. Income and poverty - single person, 2013

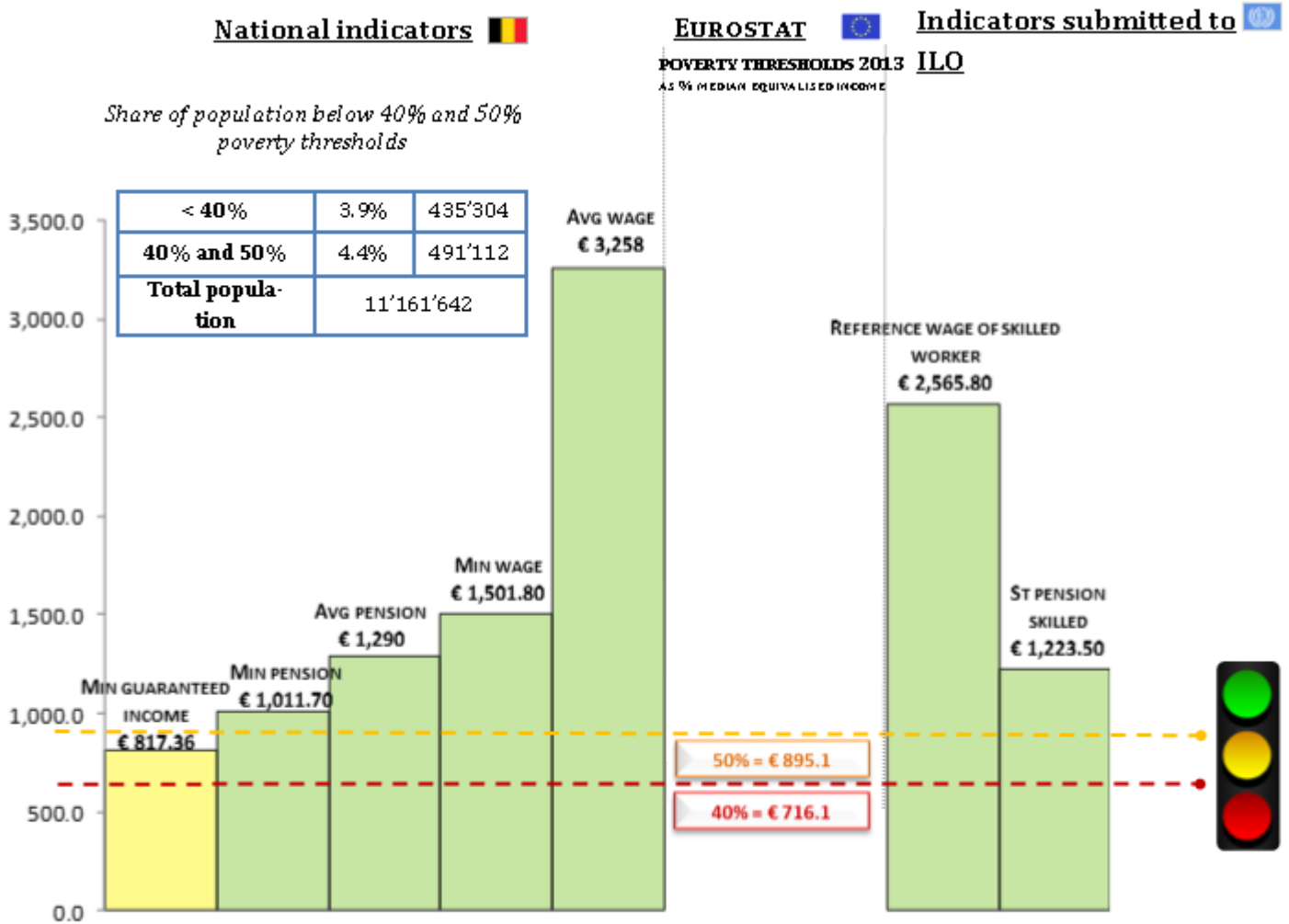


Fig. 2. Structure of population in poverty (Eurostat poverty thresholds of 60%) by the most frequent employment status, 2013

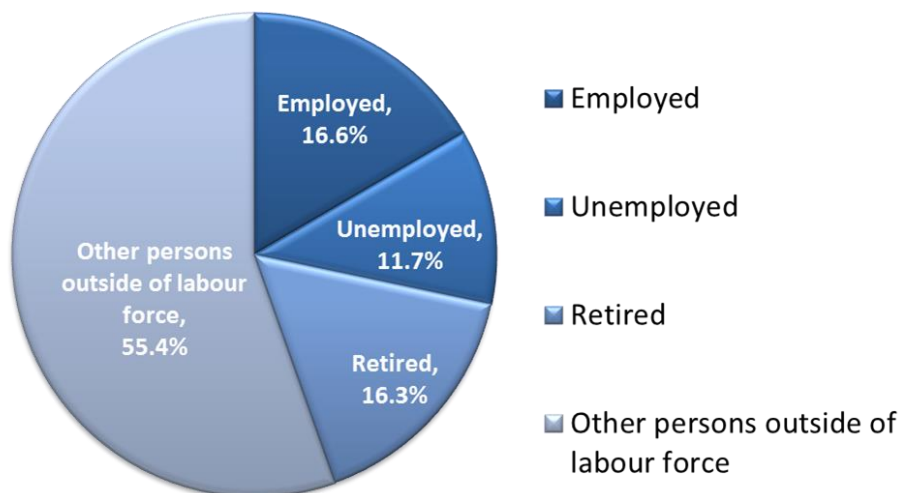
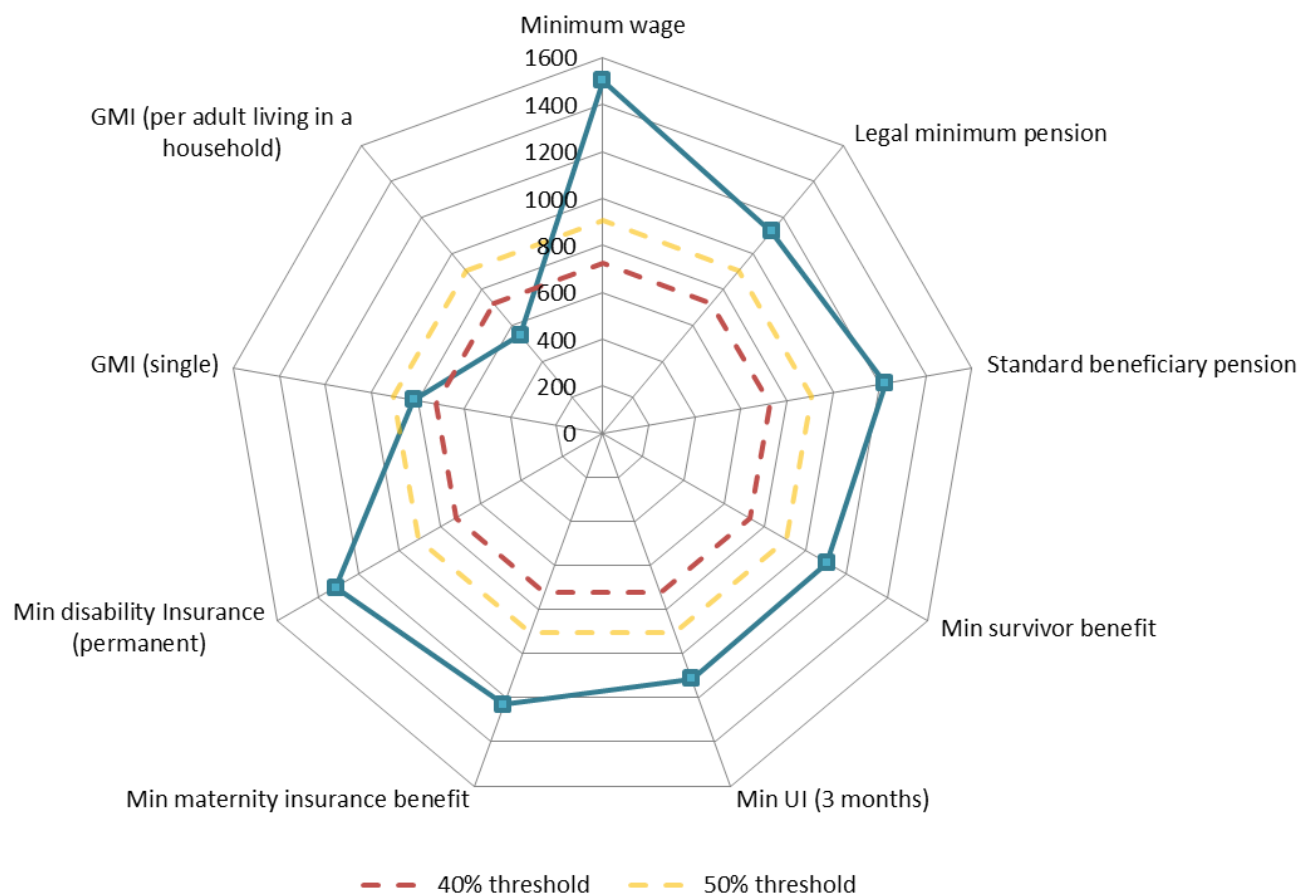
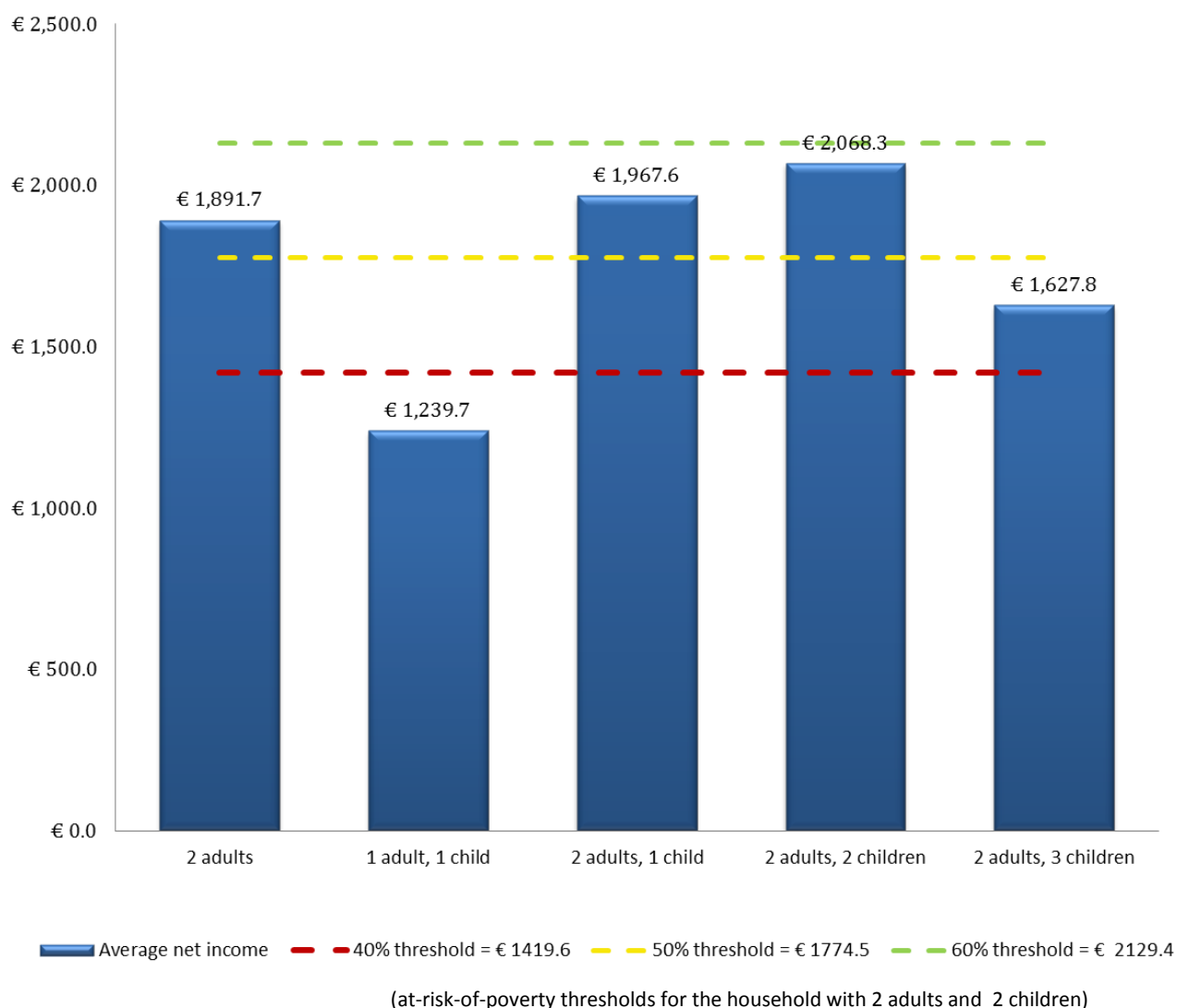


Fig. 3. Social benefits in comparison to Eurostat 40% and 50% poverty thresholds, 2014



Benefits/payments	Amount per month	Sources
Minimum wage	€ 1501.8	Public Federal Service for Employment 2014
Legal minimum pension	€ 1123.3	MISSOC, 2014
Standard beneficiary pension	€ 1223.5	Pension for average case worker, Government Report 2014
Average pension	€ 1155.0	MISSOC, 2014
Survivor benefit	€ 1105.7	MISSOC, 2014
Unemployment insurance benefit (UI - 3 months)	€ 1115.1	MISSOC, 2014
Maternity insurance benefit	€ 1231.5	MISSOC, 2014
Disability Insurance (permanent)	€ 1314.3	MISSOC, 2014
GMI (single)	€ 817.4	MISSOC, 2014
GMI (per adult living in a household)	€ 544.9	Government Report, 2014
At-risk-of-poverty threshold, 40%	€ 723.5	Eurostat, 2014
At-risk-of-poverty threshold, 50%	€ 904.3	Eurostat, 2014

Fig. 4. Income and poverty indicators by type of household, 2012



Household composition	Average net income	At risk of poverty rate (60% threshold)
2 adults	€ 1891.7	13.7 %
1 adult, 1 child	€ 1239.7	33.2 %
2 adults, 1 child	€ 1967.6	12.7 %
2 adults, 2 children	€ 2068.3	9.2 %
2 adults, 3 children	€ 1627.8	16.2 %

**Share of households below the poverty threshold (60% threshold) as % of total number of households*

Fig. 5. Comparison of monthly wages and pensions (40% replacement rate) to the Eurostat poverty thresholds in 2013-2014, by decile

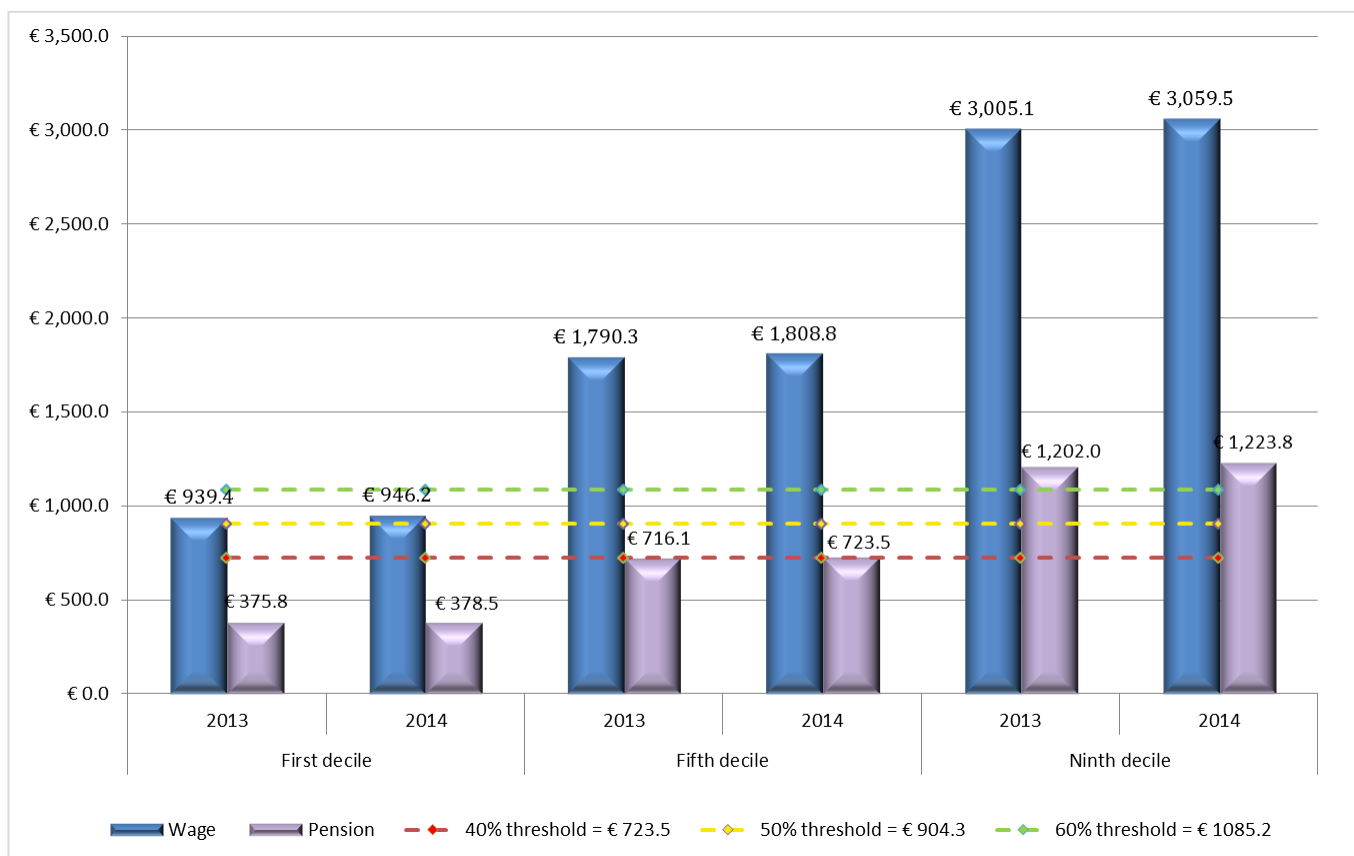


Fig. 6. Test on precarious employment: share of employed population by different job security situation, as % of total employment, 2012

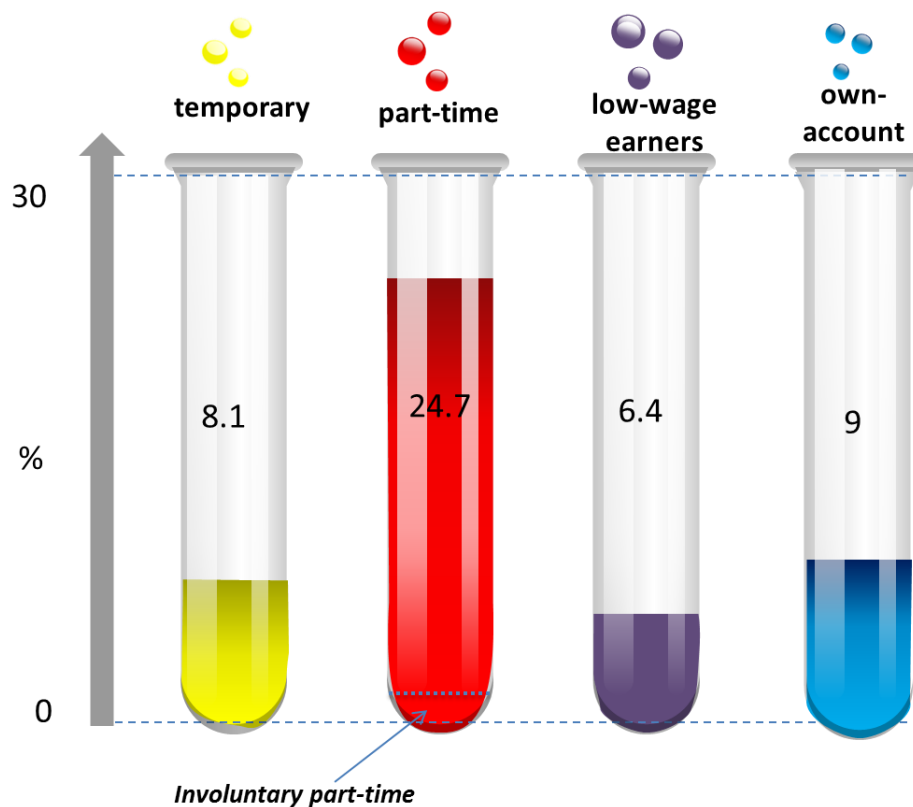
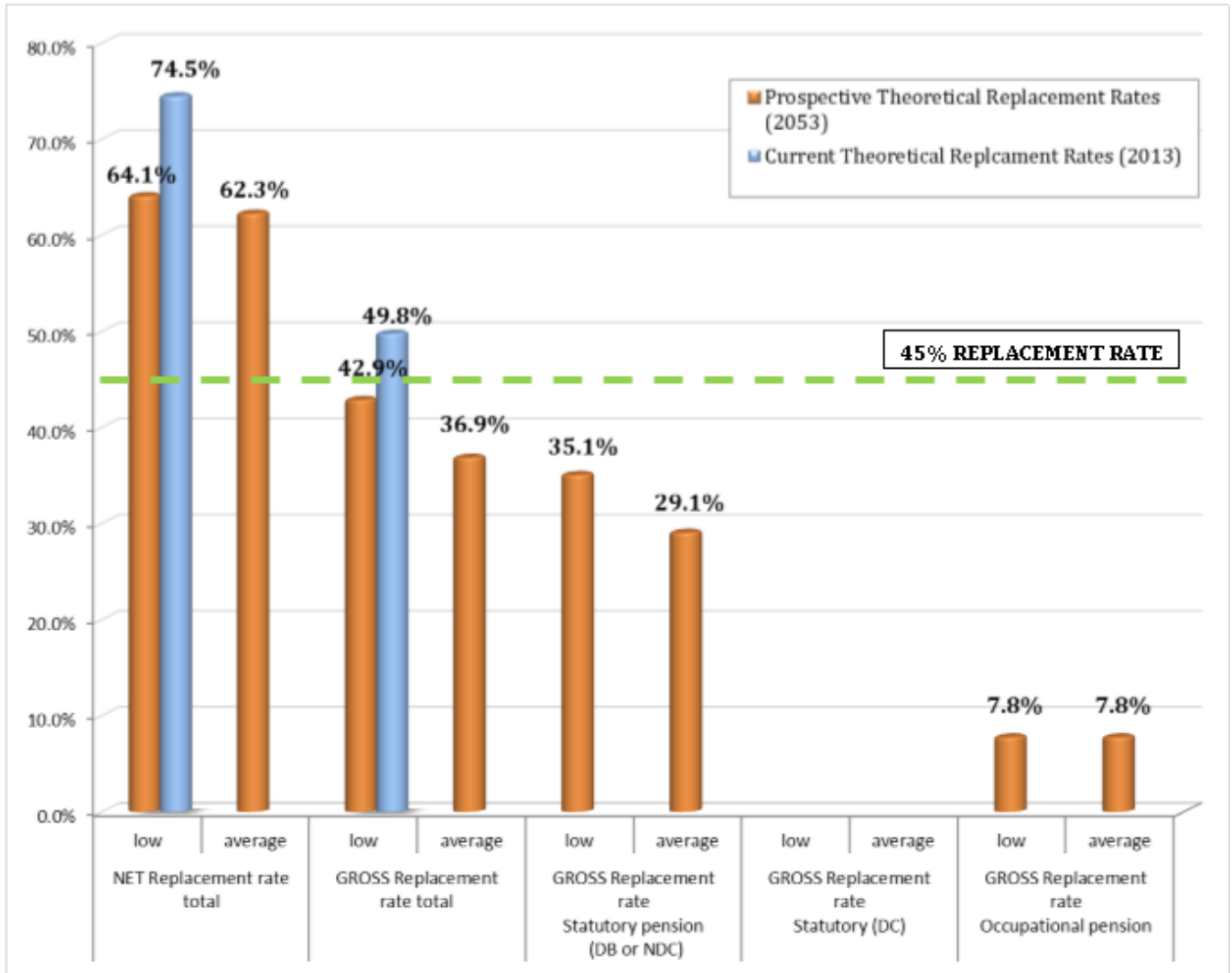


Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age (67) with 30 years of contributions between 2013 and 2053



**Male, 20 years work from age 25 - career break until 10 years prior to SPA - 10 years work.
10 years of career break in the middle of the career**

	NET Replacement rate total		GROSS Replacement rate total		GROSS Replacement rate Statutory pension (DB or NDC)		GROSS Replacement rate Statutory (DC)		GROSS Replacement rate Occupational pension	
	low	average	low	average	low	average	low	average	low	average
2053	64.1%	62.3%	42.9%	36.9%	35.1%	29.1%	-	-	7.8%	7.8%
2013	74.5%	-	49.8%	-	-	-	-	-	-	-

Source: The 2015 Pension Adequacy Report: current and future income adequacy in old age in the EU,

*CHAPTER II. Selection of the Article 65, 66 or 67 under
C102/ECSS and determination of the Standard Reference
Wage used for calculating the replacement level of benefits*

- [Fig. 1. Article 65: Type of social security schemes and method of benefit calculation](#)
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- [Fig. 3. Article 67: Type of social security schemes and method of benefit calculation](#)
- [Extracts from the Government Reports \(2011-2015\) on the ECSS concerning the Reference Wage](#)
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- [Fig.10. Comparison of the reported reference wage to other wage indicators in Belgium](#)

Fig. 1. Article 65: Type of social security schemes and method of benefit calculation

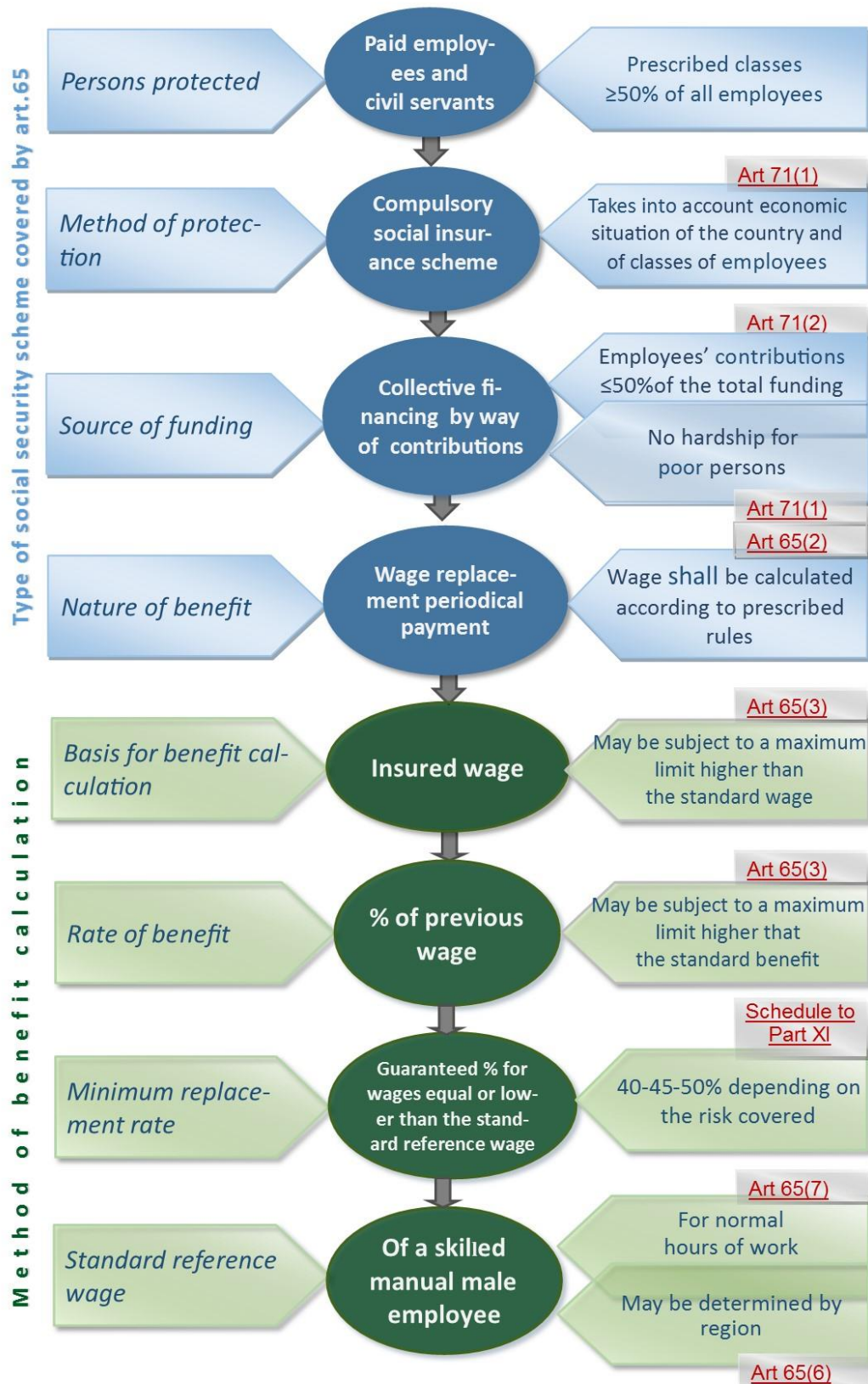


Fig. 2. Article 66: Type of social security schemes and method of benefit calculation

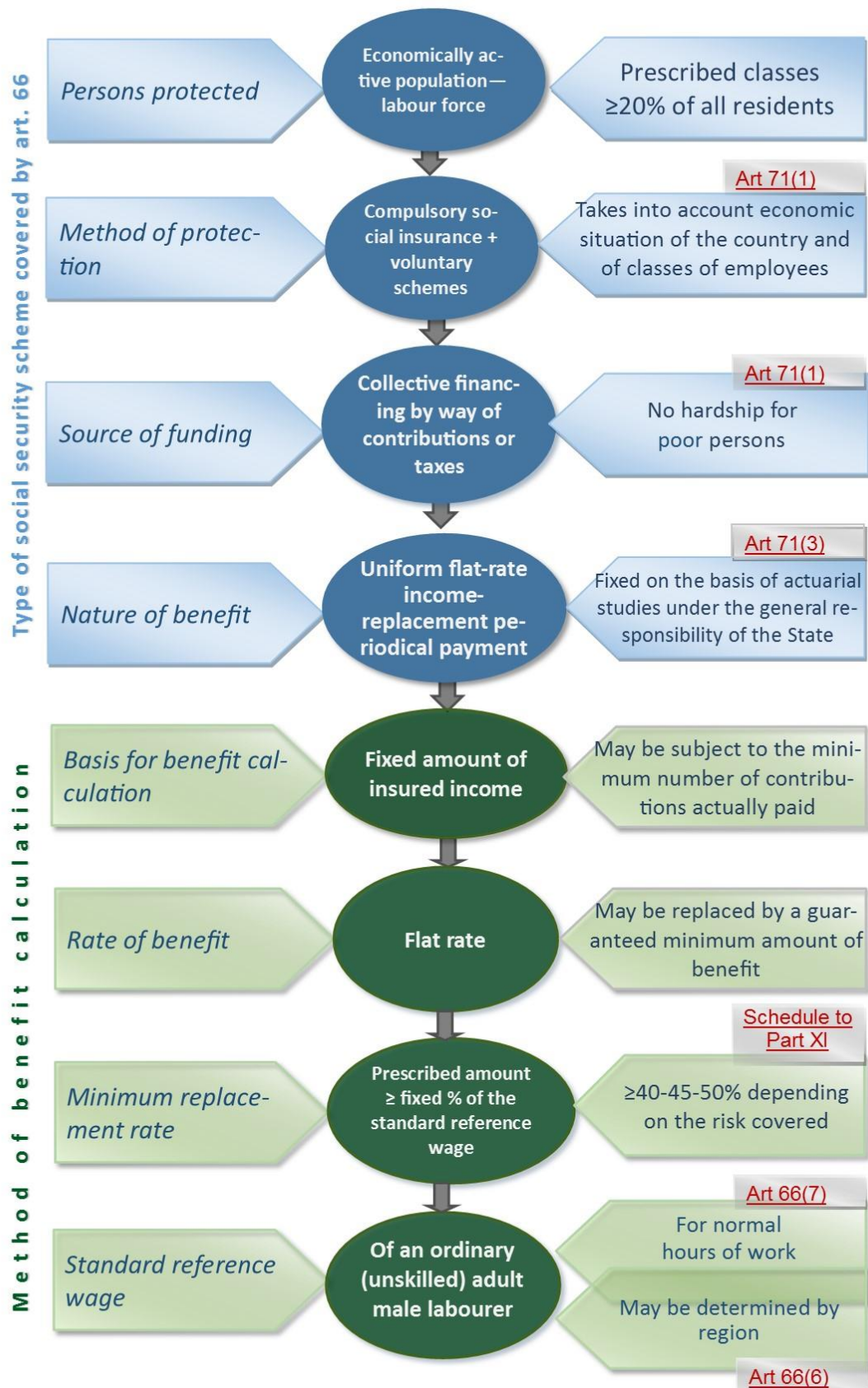
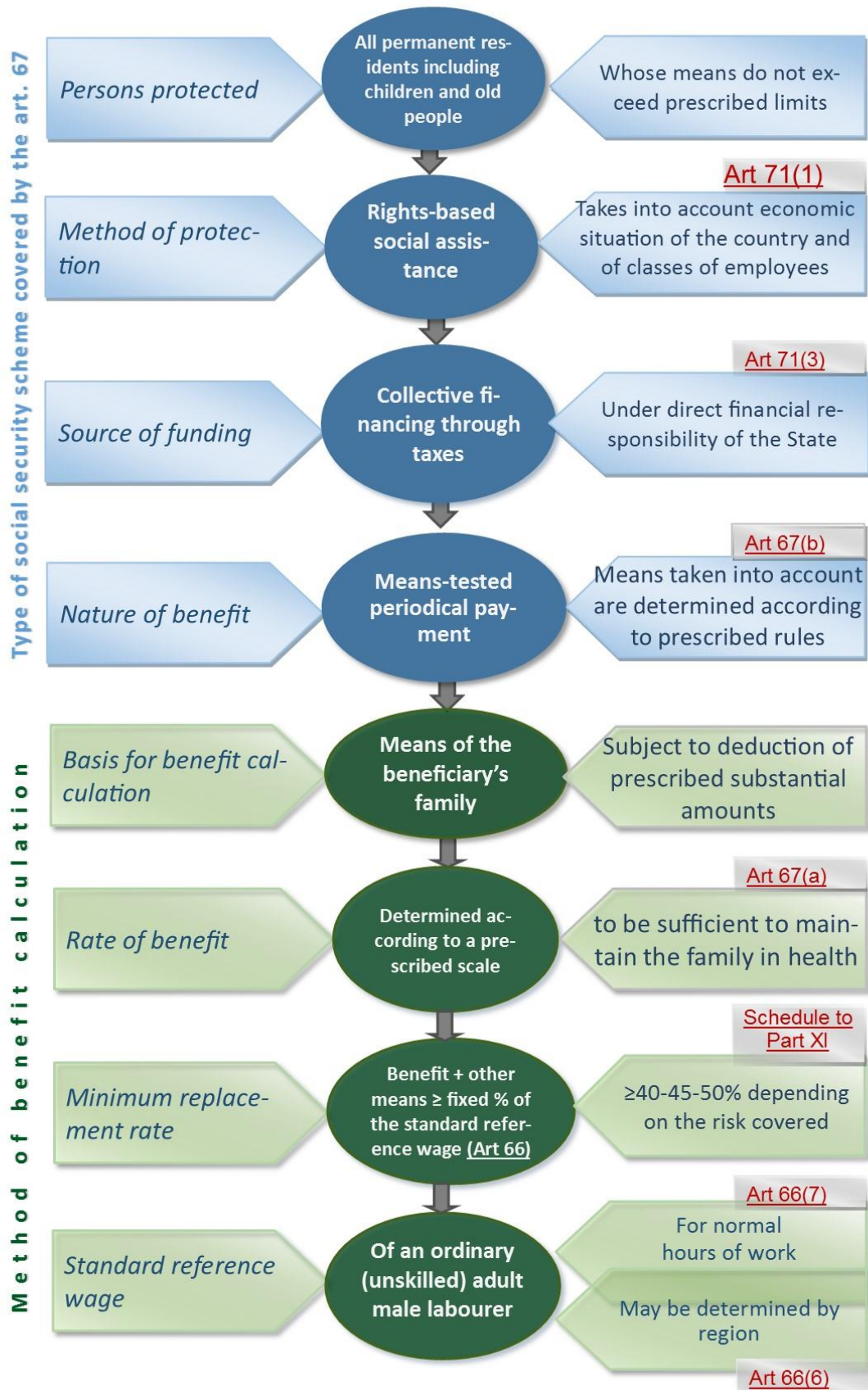


Fig. 3. Article 67: Type of social security schemes and method of benefit calculation



Extracts from the Government Reports (2011-2015) on the ECSS concerning the Reference Wage

Report of Belgium under Article 74 of the European Code of Social Security and its Protocol (1 July 2014 - 30 June 2015)

Partie IX (Calcul des paiements périodiques), articles 65 et 66

La méthodologie sera revue lors de la rédaction du prochain rapport détaillé.

Report of Belgium under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011): § 6, b), de l'article 65.

Partie III (p. 29) + Partie VIII (p.84) + Partie IX (p.89) :

14,030 EUR par heure soit 112,24 EUR par journée de travail de 8 heures.

Partie IV (p.37): Montant mensuel du salaire: 2.487,33 € * 12 = 29.848 euro

Partie V (p.50) + Partie X (p.92): Salaire annuel en 2009 de l'ouvrier choisi : 30.789,66 EUR

Bénéficiaire type: ouvrier qualifié dans l'industrie de la construction de plus de 21 ans ayant une épouse et deux enfants à charge dont un de moins de 6 ans et un de plus de 12 ans mais de moins de 16 ans.

Report of Belgium under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011): § 6, a), de l'article 65.

Partie VI (p.57): Le salaire de base d'un ouvrier pleinement qualifié (art. 65, 6.a) dans l'industrie mécanique artisanale s'élève au 1er juillet 2010 à 27 187,58 EUR (14,03 EUR x 38 heures x 48 semaines + primes 6,24%) et au 30 juin 2011 à 27 807,68 EUR (14,35 EUR x 38 heures x 48 semaines + primes 6,24%)

Report of Belgium under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011): l'article 66.

Partie VIII (p.80): Le salaire brut mensuel moyen des ouvriers dans l'industrie s'élève à 2487,33 EUR

Table 1. Calculation of the reference wage under all options permitted by articles 65-66 of the ECSS/C102

Articles in the ECSS/C.102	Comments	Reference wage: amount		
		ILO calculations ¹ -2010	Government ²	
Article 65 (para 6): a skilled manual male employee				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 ³ (group 7)	N/A	Partie VI : 1er juillet 2010 à 27 187,58 EUR = 2265.6 euros/month 30 juin 2011 à 27 807,68 EUR = 2317.3 euros/month
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 ⁴ group with the highest number of male employees: typical skilled male worker in manufacturing	2578 euros ⁵	Partie III, IV, V, IIIV, IX, X : ouvrier qualifié dans l'industrie de la construction 30.789,66 EUR (2009) = 2565.6 euros/month
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used	3436 euros ⁶ (full-time and part-time employees)	
Article 66 (para 4): an ordinary manual male labourer				
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: typical unskilled male worker in manufacturing	2480 euros ⁷	Partie VII : Le salaire brut mensuel moyen des ouvriers dans l'industrie s'élève à 2487,33 EUR

* Gross wages are used unless stated otherwise

¹ ILO calculations based on EUROSTAT data from Labour Force Survey - LFS-2013 and SES-2010 (see detailed information further)

² Reference wage reported by the Government on the application of ECSS and C.102

³ ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow) <http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

⁴ ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008 <http://unstats.un.org/unsd/cr/registry/isic-4.asp>

⁵ Structure of earnings survey (SES)– Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

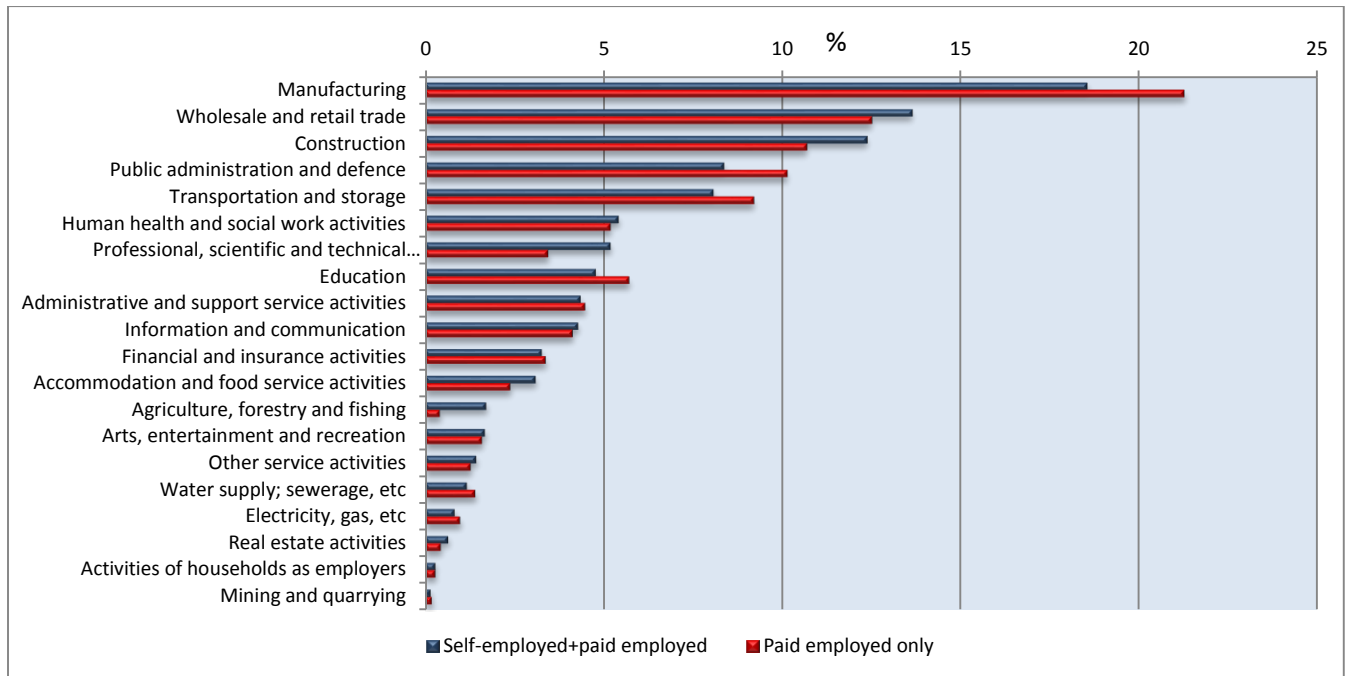
⁶ Structure of earnings survey (SES) – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en

⁷ Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

ILO assessment of the options offered by Articles 65-66

OPTION 2 – a typical manual employee is found in the sector with the highest number of employed males = Manufacturing

Fig.4. Share of employed males by economic activity in total male employment and share of males in paid employment by economic activity in total number of males in paid employment (ISIC rev.4, 2013, LFS)



Source: Eurostat LFS - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egaps&lang=en

Fig. 5. The average wages of a typical skilled/unskilled manual male employee are determined by cross-tabulating of the two classifications

- ISCO 08 – International Standard Classification of Occupations (group 7- skilled and 9 – ordinary)
- ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008



ISCO 08:

ISCO 08: Major group 7

Craft and related trades workers apply their specific knowledge and skills to produce or process goods. The tasks call for an understanding of all stages of the production process, the materials and tools used and the nature and purpose of the final product. Most occupations in this group require skills at the second ISCO level.

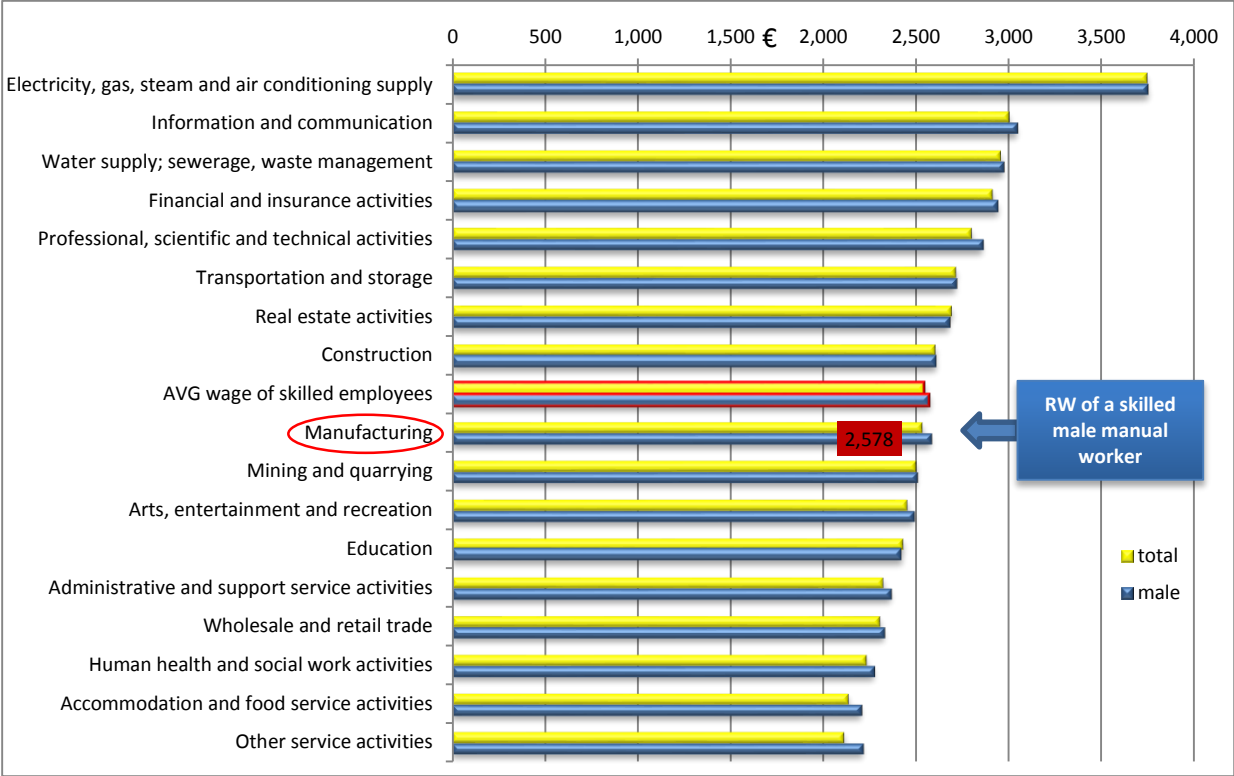
The work is carried out by hand and by hand-powered and other tools.

ISCO 08: Major group 9

Elementary occupations involve the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort.

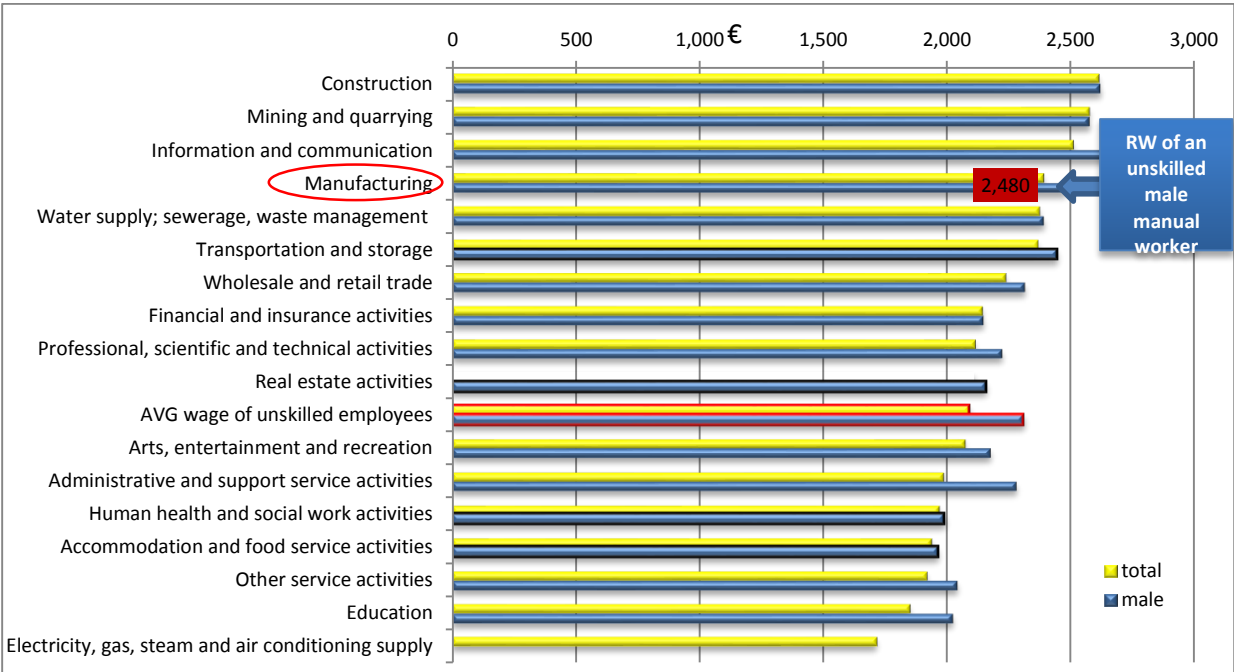
Most occupations in this major group require skills at first level of ISCO (involve physical and manual tasks, require only primary education at most)

Fig.6. Average monthly wages of skilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



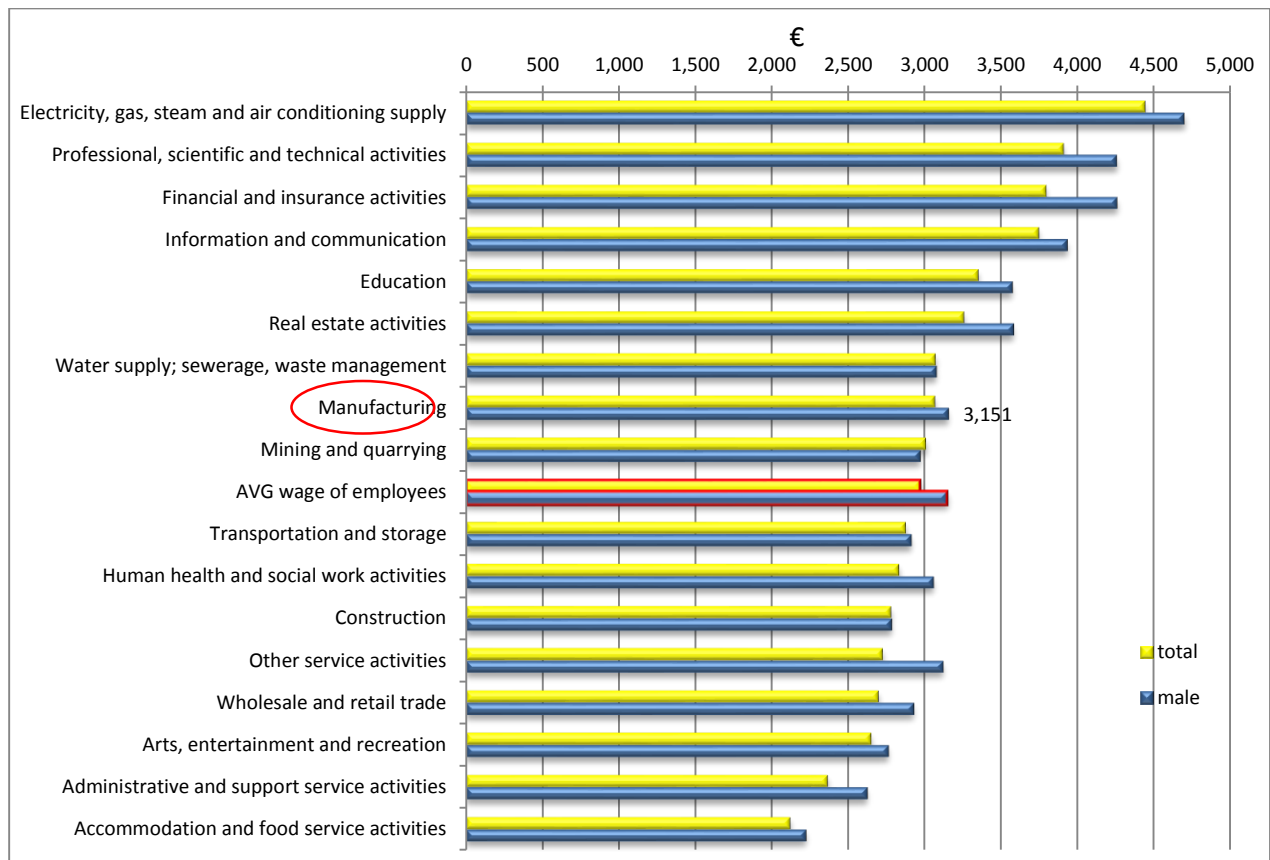
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.7. Average monthly wages of unskilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



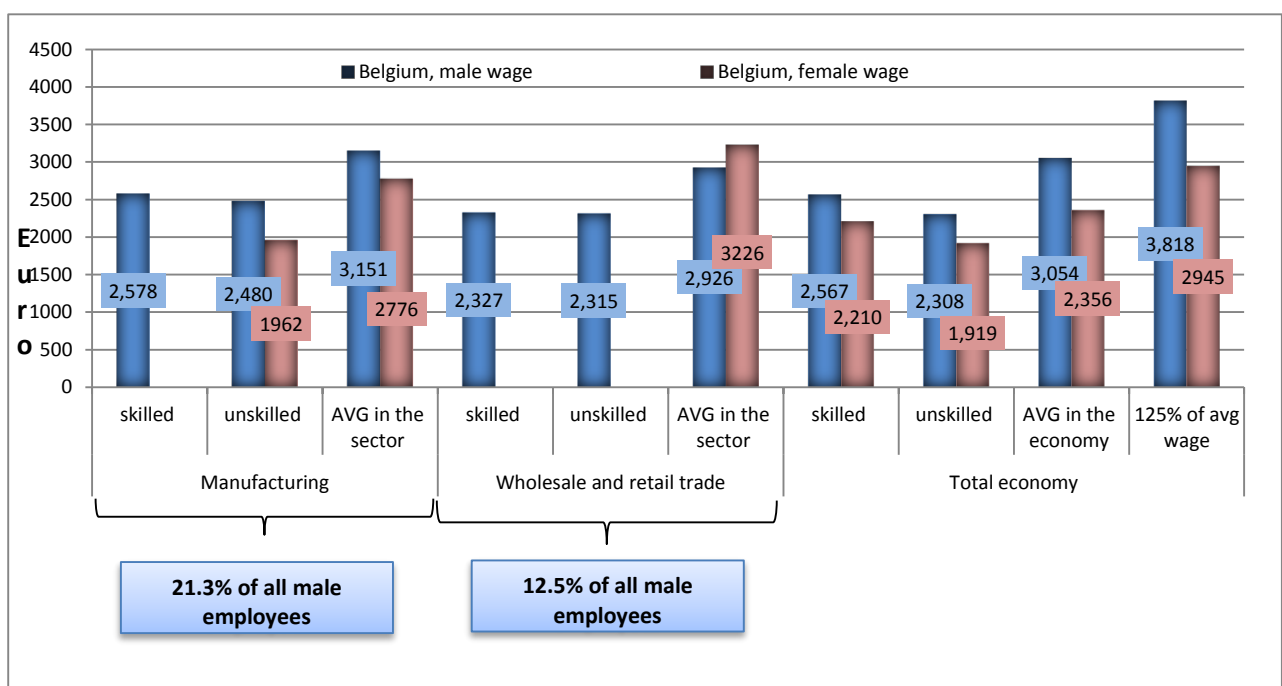
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.8. Average monthly wages of employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



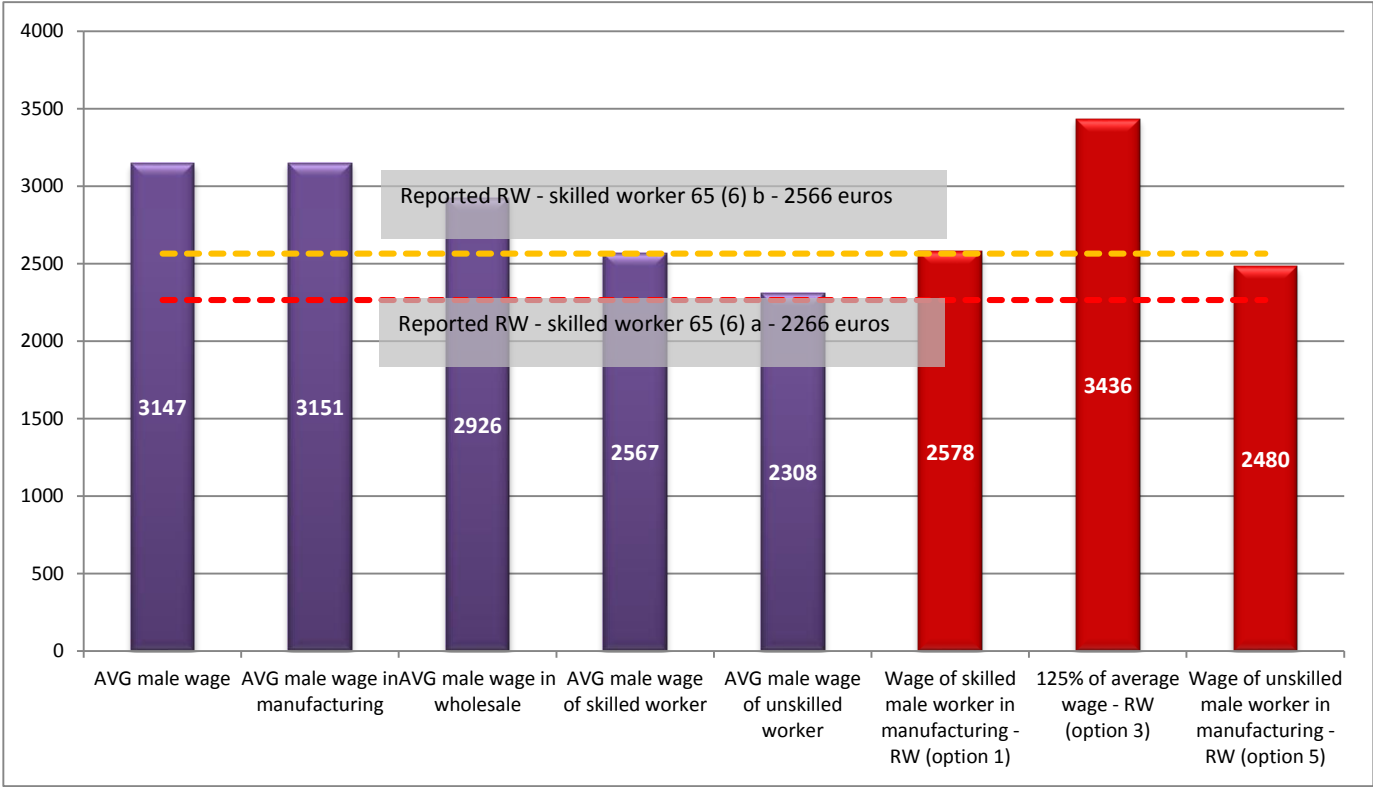
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.9. Average monthly wages of male and female skilled and unskilled employees in the 2 sectors (Manufacturing and Wholesale and retail trade) with the highest number of male employees, in comparison to other wage indicators in Belgium, SES -Eurostat, 2010 and EU-SILC, 2010



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en – 125% of average wage (include both full-time and part-time employees)

Fig.10. Comparison of the reported reference wage to other wage indicators in Belgium, 2010, euros



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en for option 3 – 125% of average wage (include both full-time and part-time employees)

CHAPTER III. Integrated Management of compliance and reporting obligations of Belgium under social security provisions of the ratified international treaties on social rights

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- [Coordination of reporting between the ECSS and C102. Form for the annual report on the European Code of Social Security](#)
- [Table 5. Coordination of reporting obligations on up-to-date ILO social security Conventions ratified by Belgium](#)
- [Fig. 1. Time management of the 5 years reporting cycle \(2011-2016/17\) on international and European social security standards](#)
- [Fig. 2. Time management for reporting on social security standards in 2016](#)

Table 1. Up-to-date social security standards in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16	Art.8§1	Art.15 §1§3		Art.4§1, 13§1§2§3, 14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	

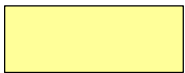


Social Security Standards in force for Belgium



Social Security Standards not in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, Art.11§1	Art.2§1 Art.4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11		Art.1§1§3	Art.23	Art.3	Art.16	Art.8§1	Art.15§1		Art.4§1, 13§1, 30	
	Art.13§1				Art.15§2	27§1b,c		Art.15§3	Art.13§2§3, 14		
	Right to Social Security Art.12§1§2§3										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	



Pending comments of the supervisory bodies



critical comments or non-compliance

Table 2. Pending comments of the supervisory bodies

Table 3. Up-to-date standards on which reports are due in 2016

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3	Art.16	Art.8§1	Art.15 §1§3		Art.4§1	
					Art.15§2	27§1b,c				Art.13§1§2 §3, 14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	



Report in 2016

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16	Art.8§1	Art.15 §1§3		Art.4§1	
						27§1b,c				Art.13§1§2 §3, 14, 30	
Right to Social Security Art.12§1§2§3											
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	



Report in 2017

Table 4. Up-to-date standards on which reports are due in 2017

Next detailed report of Belgium under Article 74 of the ECSS

(Extract from CEACR 2015 Conclusions)

In accordance with the reporting cycle for the Code, the Government is due to submit a detailed report in July–August 2016 covering the five-year period from 1 July 2011 to 30 June 2016. In accordance with the reporting cycle on the application of Convention No. 102, the Government is also due to provide a detailed report in June–August 2016 for the period beginning 1 June 2011 up to 31 May 2016. The Committee draws the Government’s attention to the alignment of reporting requirements under the Code and Convention No. 102 and the similarity of the report forms for both instruments, the objective of which is to reduce the administrative burden and avoid the need to duplicate reports. It is for this reason that the report form for the Code explicitly provides that, where a government is bound by similar obligations resulting from the ratification of ILO Convention No. 102, it may provide the Council of Europe with copies of the reports submitted to the International Labour Office on the application of this Convention. The Committee emphasizes that this simplified procedure may be used next year to report on all of the Parts of the Code that have been accepted. Conversely, the information provided by the Government in its annual reports on the Code is regularly taken into account by the Committee to assess the application of Conventions Nos 102 and 121.

Furthermore, by 31 October 2016, Belgium is also due to provide a report on the application of the provisions which have been accepted of the European Social Charter, under the thematic group “Health, social security and social protection”, which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social welfare services (Article 14), the right of elderly persons to social protection (Article 23) and the right to protection against poverty and social exclusion (Article 30). The Committee notes that these Articles of the Charter are directly related to many provisions of the Code and of ILO social security Conventions, which form a single legal space of international social security law. As the reference period for the report under the Charter (1 January 2012 to 31 December 2015) falls within the reference periods for the detailed reports under the Code and Convention No. 102, the Government is invited to coordinate the fulfilment of its compliance and reporting obligations under these instruments with a view to improving the quality and coherence of the information provided. Such coordination could be extended to include future reporting on the application of the social security provisions of United Nations human rights treaties, and particularly the International Covenant on Economic, Social and Cultural Rights, for which the fifth periodic report of Belgium is due in November 2018.

With regard to the coordination of substantive commitments, the Committee recalls that, when drawing up its conclusions on the application of the Code by a specific country, it takes into consideration the relevant comments made by other supervisory bodies, such as the European Committee of Social Rights and the Committee on Economic, Social and Cultural Rights of the United Nations. With a view to facilitating the integrated management of the obligations of Belgium under the social security provisions of the principal European and international treaties on social rights, the Committee refers the Government to the coordination table and the reporting schedules presented in the attached ILO technical note, as well as to the structured compilation of comments made by the respective supervisory bodies. The Committee hopes that such a holistic vision will help the Government to apply a rights-based approach to its policy of budgetary consolidation and complement it through a legal consolidation of all the international obligations binding Belgium to the full respect of social security rights.

Parts of Convention No.102 no longer applicable following ratification of more advanced standards

C102 - Social Security (Minimum Standards)

Article 75

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

C121 - Employment Injury Benefits → C102, Part IV

Article 29

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention

C128 - Invalidity, Old-Age and Survivors' Benefits → C102, Parts V, IX, X

Article 45

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

C130 - Medical Care and Sickness Benefits → C102, Part III

Article 36

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.
2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

C130, Part II → C102, Part II

N.B! For information and reporting purposes, more advanced provisions on medical care contained in C130 include all those contained in Part II of C102.

C168 → C102, Part IV

N.B! For information and reporting purposes, more advanced provisions on unemployment benefit of C168 include those contained in Part IV of C102.

Coordination of reporting between the ECSS and C102

Form for the annual report on the European Code of Social Security (as modified by the Protocol additional thereto)

If a Government is bound by similar obligations as a result of having ratified the Social Security (Minimum Standards) Convention adopted by the 1952 General Conference of the International Labour Organisation, it may communicate of the Council of Europe copies of the reports it submit to the International Labour Office on the implementation of this Convention.

Council of Europe, Strasbourg 1967

Table 5. Coordination of reporting obligations on up-to-date ILO social security Conventions ratified by Belgium

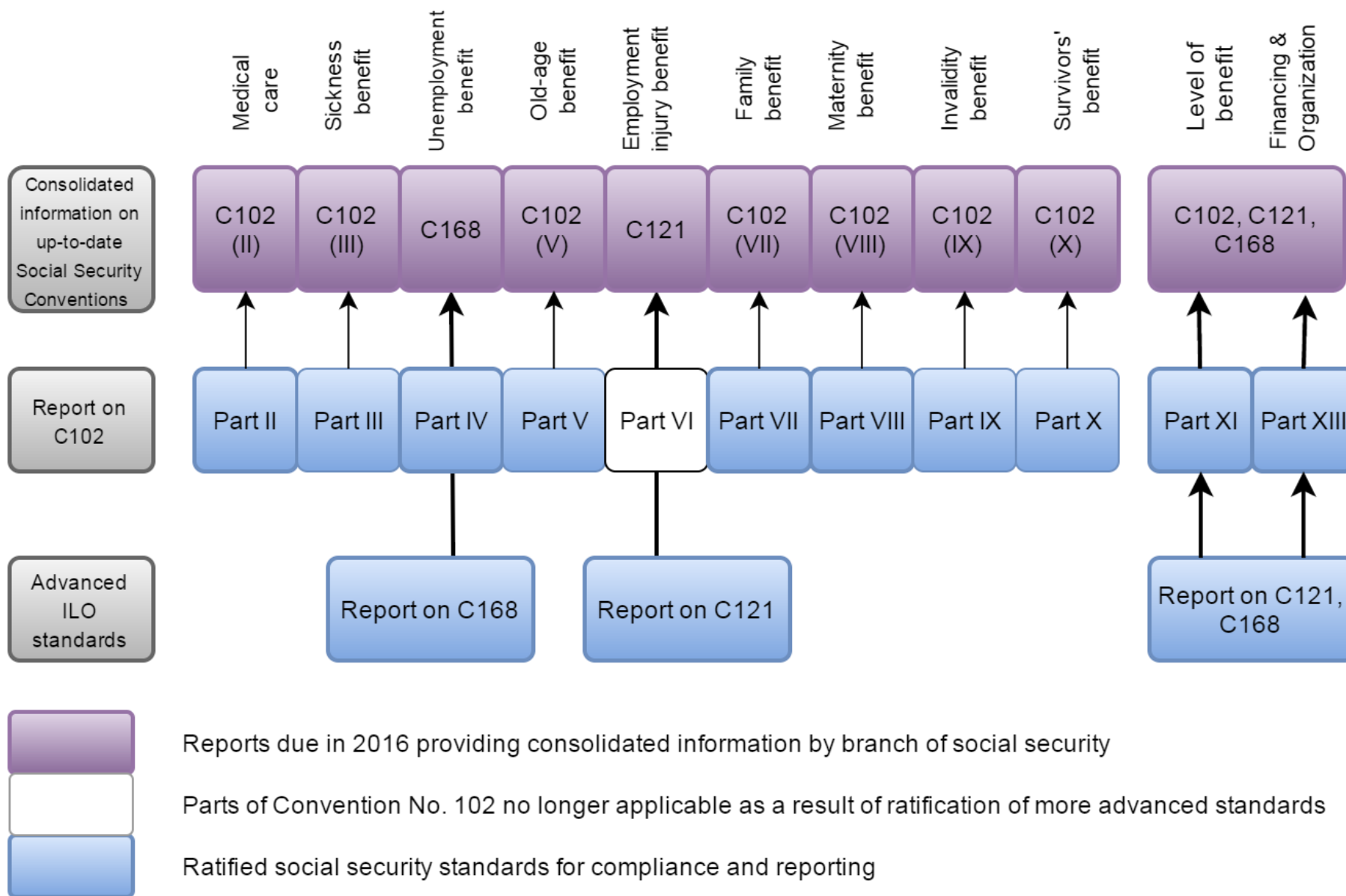
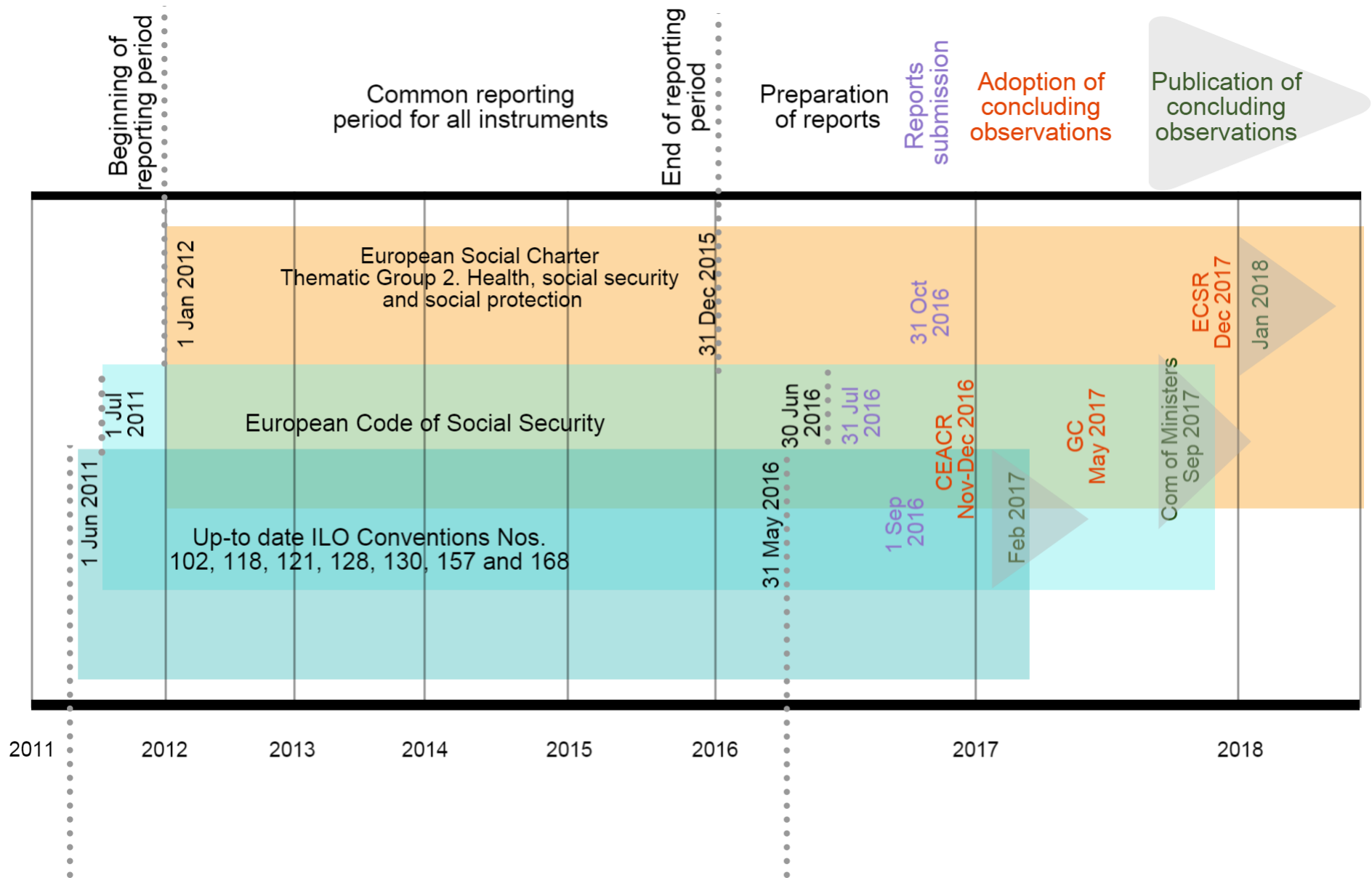


Fig. 1. Time management of the 5 years reporting cycle (2011-2016/17) on international and European social security standards



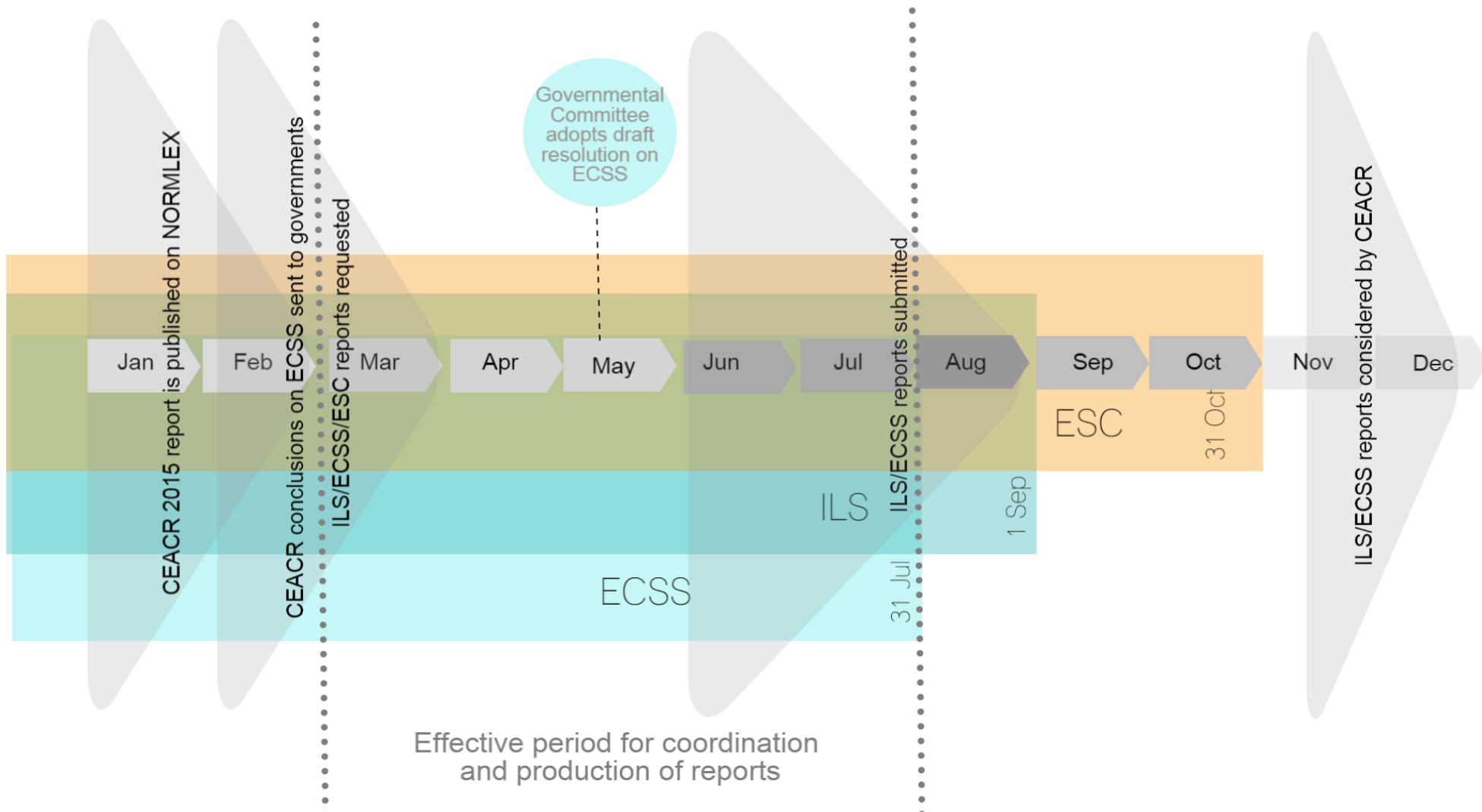


Fig. 2. Time management for reporting on social security standards in 2016

Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

- [Table 1. International treaties on social rights ratified by Belgium](#)
- [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)

1. **United Nations**

- [International Covenant on Economic, Social and Cultural Rights](#)
- [Convention on the Rights of the Child](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention on the Right of Persons with Disabilities](#)

2. **Council of Europe**

- [European Social Charter](#)
- [European Code of Social Security](#)

3. **International Labour Organization**

- [Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#)
- [Employment Injury Benefits Convention, 1964 \(No. 121\)](#)

4. **EU Country-Specific Recommendations: 2015**

Table 1. In force international treaties on social rights ratified by Belgium

Body	International Treaty	Entry into force for Belgium	Next report due on
United Nations	ICESCR	21 Apr 1983	30 Nov 2018
	Convention on the Rights of the Child	16 Dec 1991	14 Jul 2017
	Convention on the Elimination of All Forms of Discrimination against Women	10 Jul 1985	01 Nov 2018
	Convention on the Rights of People with Disabilities	2 Jul 2009	2 Aug 2019
Council of Europe	European Code of Social Security	14 Aug 1970	1 Jul - 31 Aug 2016
	European Social Charter (Revised)	2 Mar 2004	31 Oct 2015
International Labour Organization	Convention 102	26 Nov 1959	1 Jun - 1 Sep 2016
	Convention 103		
	Convention 121	22 Apr 1970	1 Jun - 1 Sep 2016
	Convention 128		
	Convention 130		
	Convention 168	21 Oct 2011	1 Jun - 1 Sep 2016
	Convention 183		
European Union	Country-Specific Recommendation of 14 July 2015		

Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations

Instrument	Supervisory body	Type of a State party report/Reporting cycle	Comments of a supervisory body
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child (CRC)	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (CEDAW)	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities (CRPD)	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security (ECSS)	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; European Committee on Social Rights (ECSR) ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter (ESC)	European Committee on Social Rights (ECSR) ; Governmental Committee (GC) of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; Conference Committee on the Application of Standards (CAS) .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

1. United Nations

International Covenant on Economic, Social and Cultural Rights – Concluding observations 2013

(the numeration of comments is kept in accordance to the original)

[UN Office of the High Commissioner for Human Rights website link, Treaty bodies database](#)

7. The Committee regrets that the Covenant and its provisions are not all directly applicable in Belgian law and are only rarely invoked before the State party's courts and tribunals, and even then from an ancillary or secondary perspective. The Committee also regrets the position taken by the State party whereby all the provisions of the Covenant "do not directly declare subjective individual rights" (E/C.12/BEL/4, para. 10), thus making it difficult to determine their direct effect in Belgian law (art. 2, para. 1).

The Committee reiterates its previous recommendation that the State party take all appropriate steps to guarantee the direct applicability of the Covenant provisions in its domestic legal order (E/C.12/BEL/CO/3, paras. 24 and 25). The Committee also recommends that the State party take the measures necessary to acquaint lawyers, judges and magistrates with the Covenant in order to facilitate, if need be, its invocation or application by the State party's courts of law. It draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.

10. The Committee notes with concern that, notwithstanding the legislative initiatives taken by the State party, persons with disabilities and persons of foreign origin continue to be victims of discrimination in the enjoyment of certain economic, social and cultural rights. The Committee further regrets that the Centre for Equal Opportunities does not have the power to take legal action under regional and community legal provisions (art. 2).

The Committee recommends that the State party ensure that persons with disabilities and persons of foreign origin are able to fully enjoy their economic, social and cultural rights. The Committee encourages the State party to enact a comprehensive national legal framework against discrimination covering all fields liable to discrimination, in accordance with article 2 of the Covenant, and to strengthen the powers of the Centre for Equal Opportunities to enable it to take legal action under regional and community legal provisions. The Committee also recommends that the State party pursue and reinforce its anti-discrimination awareness campaigns among the general public and the various social sectors, as well as the campaigns to promote its measures in support of persons with disabilities at the federal, regional and community levels.

15. The Committee is concerned at reports that employers sometimes fail to fulfil their maternity protection obligations, using other pretexts to dismiss the women concerned (art. 10).

The Committee recommends that the State party ensure effective enforcement of the legislation in order to protect women on maternity leave against unjustified dismissal connected with their condition. The State party is also encouraged to circulate its legislation widely among employers and to conduct inspections in order to combat possible abuses.

18. The Committee is disturbed by the poverty experienced by the most underprivileged and marginalized sectors of the population in the State party, notably children and persons of foreign origin. The Committee regrets the lack of information on the impact that measures taken in the area of poverty reduction and social integration — including the First Federal Anti-Poverty Plan and the National Action Plan for Social Inclusion and against Poverty 2008–2010 — have had on poverty reduction (art. 11).

The Committee encourages the State party to put in place stronger measures to combat the poverty experienced by the most underprivileged and marginalized sectors of the population, including children and persons of foreign origin. The Committee recommends that the State party continue to implement its Second Federal Anti-Poverty Plan and strengthen the other federal and regional measures, ensuring that they have a real impact on poverty reduction. The Committee further recommends that the most underprivileged and marginalized sectors of the population in the State party continue to benefit from more specific anti-poverty action. The Committee draws the attention of the State party to the Statement on poverty and the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII).

Convention on the Rights of the Child – Concluding observations 2010

[UN OHCHR website link, Treaty bodies database](#)

Allocation of resources

19. The Committee is concerned that social expenditure in the State party is comparatively low in relation to other Organisation for Economic Co-operation and Development (OECD) countries and that the proportion of children living in poverty is high and has increased over recent years. The Committee also expresses concern at the absence of a consistent budgetary analysis and child-rights impact assessment in the State party which makes it difficult to identify the expenditure allocated to children at national and Community levels and to evaluate the impact of public investment on children's lives.

Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2014

[UN OHCHR website link, Treaty bodies database](#)

Employment

32. The Committee remains concerned about:

(e) The absence of a study on gender-based discrimination in the social security system.

33. The Committee recommends that the State party:

(e) Carry out a study on the prevalence of gender-based discrimination in the social security system.

Convention on the Right of Persons with Disabilities – Concluding observations 2014

[UN OHCHR website link, Treaty bodies database](#)

Work and employment (art. 27)

38. The Committee notes with concern the low number of persons with disabilities in regular employment. The Committee also notes the Government's failure to reach targets for the employment of persons with disabilities within its own agencies, as well as the lack of a quota in the private sector.

39. The Committee recommends that the State party take all necessary regulatory measures and incentives to guarantee the right of persons with disabilities to employment, in both the private sector and the public sector. It should ensure that they have effective protection against discrimination, vocational training, adequate accessibility and the necessary reasonable accommodation.

2. Council of Europe

European Social Charter

[*Official website of the European Social Charter. link to conclusions*](#)

Article 1 - Right to work - Conclusions 2012

Paragraph 1 - Policy of full employment

Employment situation

The Committee notes that the labour market situation in Belgium slightly deteriorated during the reference period as a result of the economic crisis, as shown particularly by the increase in the unemployment rate. The first signs of recovery started to be seen in 2010, with the employment rate recovering the 0.4 percentage points lost during the crisis.

Employment policy

The Committee notes the different programmes and pilot projects for non-national jobseekers. It asks to what extent these measures have enhanced labour market participation by this group. It also wishes to be kept informed of any policies or measures implemented to increase the employment rate of older workers.

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 1§1 of the Charter.

Paragraph 3 - Free placement services

The Committee takes note of the information contained in the report submitted by Belgium. The report describes the main services provided by the Flemish Employment and Vocational Training Service (VDAB), namely, job placement activities, vocational guidance and vocational training. As regards the number of vacancies notified to the VDAB, there were 281,661 in 2007, dropping to 262,280 in 2010. The placement rate was high throughout the reference period, standing at 81.5% in 2007 and going up to 84.3% in 2010. The average time in filling vacancies was 41 days in 2010. In its previous conclusion (Conclusions 2008), the Committee found that the situation in Belgium was not in conformity with Article 1§3 of the Charter because of reiterated lack of information concerning the employment services in the other communities, namely the Walloon Region. The current report provides new information on the Walloon Region which had previously not been included. The total number of vacancies notified to the employment services (FOREM) rose from 107,118 in 2007 to 212,225 in 2010. The placement rate increased from 86% in 2007 to 87% in 2010. As regards the German-speaking Community, the Committee asks the next report to also provide information for this community.

The Committee notes from another source that with a view to improving coordination between regional placement agencies, an inter-regional association to exchange job offers and to cooperate on training was created in 2007. The Committee wishes to be kept informed on this co-operation between the public employment services in the different communities.

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 1§3 of the Charter.

Article 3 - Right to safe and healthy working conditions – Conclusions 2013

Paragraph 1 - Safety and health regulations

The Committee notes that there is a national policy which is intended to develop and preserve a culture of prevention in the occupational health and safety field. It asks for information in the next report on the results of the National strategy and of the survey on the state of health and safety at work. It also asks for a description in the next report of any changes to the legislative and regulatory framework that took place during the reference period. It then requests that the next report indicate whether policies and strategies are periodically reviewed and, if necessary, adapted in the light of changing risks.

The Committee asks that the next report clarify the apparent contradiction between the requirement by law to establish an internal prevention and protection department and the virtually general reliance on external services in practice. It also requests further details on the prevention and protection department's role, functions and activities and on how employers fulfill these role, functions and activities in practice in undertakings with less than twenty employees.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Belgium is in conformity with Article 3§1 of the Charter.

Paragraph 2 - Safety and health regulations

The Committee takes note of the improved transparency in the occupational health and safety regulations brought about by the entry into force of the Code on well-being at work. It also notes that, despite the report's wording, many changes were made to the specific legislation and regulations during the reference period. The Committee reiterates that the report must provide full, up-to-date information on changes in the legislation and regulations of the state and, where relevant, the regions during the reference period.

The Committee notes that, on the whole, temporary workers enjoy the same levels of protection and health supervision as employees on permanent contracts. It asks for information in the next report on the means of identifying and punishing infringements of Royal Decree of 15 December 2010 and the manner in which representation of temporary workers is organised. It also asks for statistic data on work accidents involving temporary workers.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Belgium is in conformity with Article 3§2 of the Charter.

Paragraph 3 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Belgium.

Occupational accidents and diseases

The Committee previously concluded (Conclusions 2007 and 2009) that the situation was in conformity with Article 3§3 of the Charter on this point. It asked for statistic data on cases of occupational disease (Conclusions 2009).

According to EUROSTAT data, the number of occupational accidents (excluding commuting accidents) decreased over the reference period (from 56 778 in 2008 to 47 065 in 2009), as did the incidence rate for such accidents (from 2 823.39 in 2008 to 1 914.77 in 2009). This rate is similar to the average in the EU-15 and exceeds that of the EU-27 (2 269.42 in 2008 and 1 707.63 in 2009). The number of fatal accidents also fell (from 51 in 2008 to 38 in 2009), as did the incidence rate for such accidents (from 2.82 in 2008 to 1.91 in 2009). This rate remains higher, however, than the average incidence rate observed in the EU-15 and the EU-27 (2.27 in 2008 and 1.71 in 2009).

According to data published by the Occupational Diseases Fund, following an initial downward trend at the beginning of the reference period, the number of reported occupational diseases increased significantly over the entire period, from 1 478 reported cases in 2008 to 1 584 in 2010.⁴

The Committee takes note of this information. It asks for the next report to describe measures taken to contain the generally high level of occupational accidents and to counter the increase in the number of cases of occupational disease.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Belgium under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

Paragraph 4 - Occupational health services

The Committee repeats the queries, mentioned in its conclusions under Article 3§1 of the Charter, concerning the apparent contradiction between the requirement to set up internal prevention and protection departments under section 33 of the Act of 4 August 1996 on the welfare of workers when they are carrying out their work, and the almost systematic use of certified external services in practice. Noting that the Government's third report listed 349 910 workers who were not covered by health supervision at work, the Committee asks which types of workers are affected by this exclusion and, in particular, what the situation of self-employed workers, home workers and domestic staff is.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Belgium is in conformity with Article 3§4 of the Charter.

Article 4 - Right to a fair remuneration – Conclusions 2014

Paragraph 1 - Decent remuneration

The Committee deferred its previous conclusion (Conclusions 2010) pending the receipt of information concerning social transfers and benefits aimed at providing a decent standard of living and permitting participation in cultural, educational and social activities. The report does not provide this information.

The Committee points out that, in order to ensure a decent standard of living within the meaning of Article 4§1 of the Charter, wages must be no lower than the minimum threshold, which is set at 50% of the net average wage. This is the case when the net minimum wage is more than 60% of the net average wage. When the net minimum wage is between 50 and 60% of the net average wage, it is for the state to establish whether this wage is sufficient to ensure a

decent standard of living (Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1). It observes that in the instant case the minimum average wages laid down in Collective 12 Agreement No.43 are lower than 60% of the net average wage, and the report provides no information showing that these wages are sufficient to ensure a decent standard of living in accordance with Article 4§1 of the Charter. It therefore considers that the situation in Belgium is not in conformity with Article 4§1 of the Charter in this respect.

The Committee repeats its request to obtain the gross amounts of minimum wages and the average wage and the amounts net of social contributions and of tax deductions. It also reiterates its request for information on the benefits and social transfers aimed at ensuring a decent standard of living and making it possible to participate in cultural, educational and social activities. It requests this information to be provided for a person living alone without a dependent child.

Conclusion

The Committee concludes that the situation in Belgium is not in conformity with Article 4§1 of the Charter on the grounds that:

- it has not been established that the average minimum wages suffice to ensure a decent standard of living;
- the average minimum wages of young workers do not suffice to ensure a decent standard of living.

Article 8 - Right of employed women to protection of maternity – Conclusions 2011

Paragraph 1 - Maternity leave

The situation was found to be in conformity in the private and public sectors in the last conclusion (Conclusions 2007) and has not changed during the reference period.

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 8§1 of the Revised Charter.

Article 11 Right to protection of health – Conclusions 2013

Paragraph 1 - Removal of the causes of ill-health

The report states that waiting lists are not a problem and that at present there is no system for recording waiting times. A working group has been set up to measure waiting times in hospitals. Its first meeting is scheduled for 25 June 2012. From 2013 onwards, the interview survey on health will include this specific topic under the “medical consumers” heading. The Committee asks to be kept informed of work in this area.

A Law of 2002 sets out patients’ rights: (1) the enjoyment of health care of a high standard; (2) freedom to choose a professional practitioner; (3) information on state of health; (4) free and informed consent to treatment; (5) an up-to-date medical record, which can be consulted and a copy of which can be obtained; (6) assured protection of privacy; (7) right to lodge complaints with a mediation service. About 95% of the population are moderately to highly satisfied with health provision, but only 43% are very satisfied with hospital care. Patients’ degree of satisfaction declines according to their state of health. In the last examination the Committee adopted a general question addressed to all States on the availability of rehabilitation facilities for drug addicts and the range of options and treatments available. Since the report does not respond to this question the Committee asks for the relevant information in the next report.

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 11§1 of the Charter.

Article 12 Right to social security – Conclusions 2013

Paragraph 1 - Existence of a social security system

The Committee takes note of the information contained in the report submitted by Belgium.

Risks covered, financing of benefits and personal coverage

The Committee notes that the social security system continues to cover all traditional risks. In its previous conclusion (Conclusions 2009) the Committee asked for detailed information regarding the coverage of population under each branch of social security. In reply it notes from the report that the total number of residents, including the general scheme as well as the special scheme for self-employed persons, covered by healthcare stood at 10 million in 2011, representing 95% of the overall population. As regards old-age benefit, all employees as well as the unemployed are covered. As regards family benefits, 85% of employees are covered. The Committee asks what percentage of economically active population is covered for income-replacement benefits, such as unemployment, maternity and sickness.

Adequacy of the benefits

The Committee notes from Eurostat that in 2011 50% of the median equivalised income stood at €834. In its previous conclusion the Committee held that the level of income replacement benefits continued to be adequate, i.e. above the Eurostat at-risk-of-poverty threshold. For the reference period, it assesses the adequacy of benefits on the basis of the information provided in the report and in MISSOC.

Old-age benefit

According to the report, the minimum guaranteed pension in 2011 stood at €12 796.00 for a single person and € 12 594.81 for a survivor. The Committee further notes from MISSOC that the guaranteed minimum pension (pension minimale garantie/gewaarborgd minimumpensioen) for a complete career, as well as for the equivalent of 2/3 of a complete career stood at €12 515.10 in 2011. As regards the minimum level of the old-age pension, the Committee notes from MISSOC that the guaranteed income for the elderly (GRAPA) was increased during the reference period and in 2011 it amounted respectively to € 916.33 (single rate), € 610.89 (cohabiting rate) and € 1 221.78 (two cohabiting beneficiaries) per month. The Committee notes that calculated per month, the amount of the guaranteed minimum pension is above the Eurostat poverty threshold.

Sickness benefit

The Committee notes from MISSOC that all workers bound by a labour contract are covered under sickness benefit branch. The compensation by insurance starts when the guaranteed salary period paid by the employer is over. This means after two weeks of disability for workers and one month for employees. Compensation rate is 60% of 25 earnings. The Committee requests that the next report provide the minimum monthly amount of sickness benefit paid to a single worker during the reference period.

Unemployment benefit

The Committee notes from MISSOC that in 2011 the unemployment benefit (allocations de chômage/werkloosheidsuitkeringen) for single persons in the first year of unemployment stood at 60% of their wage with a maximum of € 53.64 and a minimum of € 33.87 of allowance. The Committee notes from the supplementary information provided by the Government that the minimum amount of benefit stays the same throughout the contingency and it stood at €1 112 in 2013. The Committee considers that in 2011 the minimum level of unemployment benefit (€877 per month) was adequate. In its previous conclusion the Committee wished to know whether there was the actual guarantee of the unemployment risk for which workers had contributed during their working activity. More specifically, it asked what was meant by 'appropriate' job offer and how such appropriateness was assessed in individual cases. In reply the report states that the worker who is or becomes unemployed due to circumstances dependent on his will may be disqualified from receiving benefits. 'Unemployment due to circumstances dependent on worker's will' must be understood as the refusal to accept a suitable employment. As to what constitutes a suitable employment, according to the report, Articles 22 to 32 of the Ministerial Decree of 26 November 1991 on the detailed rules for the regulation of unemployment, define the non-exhaustive criteria (such as, among others, the remuneration, the ability to perform the job, the travel time) that determine whether a job is suitable or not. The responsible authority is the director of the unemployment office of the National Employment Office. An appeal against the decision of the authority is possible before the labour courts. Regarding an initial period during which an unemployed person may refuse a job, Article 23 of the Ministerial Decree provides that a job is deemed inappropriate if it corresponds neither to the profession, nor to the usual occupation. The initial period during which it may be refused is first three months of unemployment, if the worker has not reached the age of 30 or has a work history of less than 5 years. It is the first five months of unemployment for other workers. The initial period shall not apply if, in the opinion of the regional employment authority, the employment opportunities in the occupation concerned are very small. After the expiry of the period, the worker is required to accept a job in another profession. In case of a refusal to accept a suitable employment or non-presentation of a justification after being invited by the employment service and / or training, the unemployed may receive a warning or be disqualified from receiving benefits for at least 4 weeks and at most 52 weeks. Unemployed may be disqualified from receiving benefits for an indefinite period if the refusal of a job offer or non-presentation took place with the deliberate intention to continue to receive benefits. The Committee considers that the definition of a suitable job is in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 12§1 of the Charter.

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

The Committee takes note of the information contained in the report submitted by Belgium. Belgium has ratified the European Code of Social Security and its Protocol on 13 August 1969 and has accepted parts II-X of the Code. The Committee notes from Resolution CM/ResCSS(2012)1 of the Committee of Ministers on the application of the European Code of Social Security and its Protocol by Belgium (period from 1 July 2010 to 30 June 2011) that the law and practice in Belgium continue to give full effect to the parts of the Code which have been

accepted, as amended by the Protocol, subject to further information on the application of several parts of the Code (regarding employment injury benefit and family benefit).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Belgium is in conformity with Article 12§2 of the Charter.

Paragraph 3 - Development of the social security system

The Committee takes note of the information contained in the report submitted by Belgium. The Committee takes note of the developments during the reference period. The Committee refers to its previous conclusions for the description of the Belgian social security system. Since Belgium has ratified Articles 8 and 16 of the Charter, the Committee will assess the scope and impact of developments with regard to maternity and family benefits when it will next examine compliance with these articles. As regards other branches of social security, the Committee takes note of the legislative developments during the reference period, which modified the financing of healthcare, decreased patient charges and broadened the healthcare coverage. The law of 19 December 2008 introduced modifications in the area of access to healthcare by, among others, broadening the eligibility to healthcare benefits for unaccompanied minor children, and expanding the scope of benefits to include transport and ambulance fees. Several improvements were made in palliative care as well as the treatment of chronic diseases. The royal decree of 2 October 2011 fixed the patient charges in respect of medical consultation. Amendments were also made to the maternity benefit by the royal decree of 21 August 2009. The Committee considers that the numerous amendments presented in the report have contributed to improving the system of social security.

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 12§3 of the Charter.

Article 13 - Right to social and medical assistance – Conclusions 2013

Paragraph 1 - Adequate assistance for every person in need

Types of benefits and eligibility criteria

The Committee notes from the MISSOC that the law guarantees a right to social integration through an integration income, coupled or not to an integration project. The benefits are established at federal level but granted locally by the Public Centres for Social Assistance. They are revised annually and can be paid as long as the entitlement conditions are fulfilled. The Committee notes that the information provided in the report concerning self-employed healthcare, family allowances and disability allowances are not relevant for the assessment of compliance with Article 13§1 of the Charter.

Level of benefits

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: according to MISSOC in 2011 the monthly integration allowances were as follows: a single person living alone received €740.32, a cohabiting person received €493.54 and a person living together with a dependant family received €987.09.
- Additional benefits: the basic benefits can be combined with family benefits received for

children. Subsidies for installation, moving house and rent exist at regional level. A heating allowance (maximum €300) can also be granted by the Public Centres for Social Assistance to certain categories of people.

- Medical assistance: the Committee notes that there have been no changes to the situation whereby recipients of the guaranteed income and social assistance are entitled to full reimbursement of medical expenses.
- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €834 per month in 2011. In the light of the information above, the Committee considers that the levels of social assistance (basic and additional benefits) paid to a single person without resources living alone are adequate. Given that Belgium has not accepted Article 23 of the Charter (the right of elderly people to social protection), the Committee assesses the level of non-contributory pension paid to a single elderly person under this provision. It notes from the report that the guaranteed income for the elderly (GRAPA) was increased during the reference period and in 2011 it amounted respectively to €916.33 (single rate), €610.89 (cohabiting rate) and €1 221.78 (two cohabiting beneficiaries) per month, which could be combined with additional benefits (see above). In the light of the above data, the Committee considers that the levels of social assistance paid to an elderly person without resources are adequate.

Right of appeal and legal aid

The Committee notes that there have been no changes to the situation which it has previously found to be in conformity with the Charter.

Personal scope

The Committee notes from Belgian official social security websites that in practice it is required to reside regularly and uninterruptedly in Belgium to be entitled to social assistance benefits.

The Committee notes from the report that in 2009 a Law was adopted (Law 6 May 2009, Article 110), extending the scope of the guarantee of income for elderly persons to all nationals of states parties to the Charter. However, this provision has not entered into force yet (according to the information provided in an addendum to the report, further legislative amendments in this respect are planned to be adopted soon). The Committee accordingly maintains his finding of non-conformity on this issue.

Conclusion

The Committee concludes that the situation in Belgium is not in conformity with Article 13§1 of the Charter on the ground that the guaranteed income for the elderly (GRAPA) is not granted to foreigners without resources unless they are covered by EU law or are nationals of States which have concluded reciprocity agreements with Belgium.

Paragraph 2 - Non-discrimination in the exercise of social and political rights

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 13§2 of the Charter.

Paragraph 3 - Prevention, abolition or alleviation of need

In response to the question raised in the previous conclusion (Conclusions 2009), the report indicates that the resources of the CPAS (Public social welfare centres) in the German speaking community have been increased.

Conclusion

The Committee concludes that the situation in Belgium is in conformity with Article 13§3 of the Charter.

Article 14 - Right to benefit from social services

Paragraph 1 - Promotion or provision of social services – Conclusions 2013

Organization of the social services

Social services are largely decentralized and are mainly the responsibility of the regions and communities.

Despite the additional information provided, there is nothing to show that the situation is in conformity with the Charter as concerns the organisation of social services adapted to needs due to a lack of information, in particular on the issues covered by the agreements between the government and the provider of social services in the German-speaking Community and, in general, on the organisation of the social services in the Walloon Region. The Committee has also considered the situation of highly dependent adults with disabilities under Article 14§1 in Collective Complaint No 75/2011, International Federation for Human Rights (FIDH) v. Belgium. In its decision on the merits of 18 March 2013, the Committee found that there had been a violation of Article 14§1 arising in particular from the lack of institutions giving these persons advice, information and personal help in the Brussels-Capital Region. Since the situation, in law and in practice, that gave rise to this violation already existed during the reference period, the Committee also concludes, as part of the reporting procedure, that there has been a violation of Article 14§1 for this ground.

Effective and equal access

There is no information in the report on the situation in the Flemish Community or the Walloon Region. In addition, the Committee asks for the next report to indicate whether, in the event of a dispute, remedies are available for those who wish to complain about social welfare services and there is a right to appeal to an independent body in urgent cases of alleged discrimination and violations of human dignity (see Conclusions 2005, interpretative comments on Article 14§1, General Introduction). Despite the additional information provided, the Committee notes that essential information is still lacking on effective and equal access to social services on the whole Belgian territory, in particular in the Flemish Community and the Walloon Region. As a consequence, it notes that there is nothing to show that the situation is in conformity with the Charter in this field. The Committee recalls that, in its decision on the merits of 18 March 2013 (see Collective Complaint No. 75/2011, International Federation for Human Rights (FIDH) v. Belgium), it found that there had been a violation of Article 14§1 arising from the significant obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services appropriate to their needs. Since the situation, in law and in practice, that gave rise to this violation already existed during the reference period, the Committee also concludes, as part of the reporting procedure, that there has been a violation of Article 14§1 on this ground.

Quality of services

There is no information in the report on staffing and the number of beneficiaries in the Flemish Community. The Committee asks for this information to be included in the next report and for it to be updated for the other communities and regions.

Conclusion

The Committee concludes that the situation in Belgium is not in conformity with Article 14§1 of the Charter on the grounds that:

- social services are not organised in such a way that they are adapted to needs;
- effective and equal access to social services is not ensured to all persons.

Paragraph 2 - Public participation in the establishment and maintenance of social services – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Belgium in response to the conclusion that it had not been established that measures were taken to encourage individuals and voluntary organisations to participate in the establishment and running of social welfare services (Conclusions 2013, Belgium).

The Committee recalls that Article 14§2 requires States to provide support for voluntary associations seeking to establish social welfare services (Conclusions 2005, Statement of Interpretation on Article 14§2). This does not imply a uniform model, and States may achieve this goal in different ways: they may promote the establishment of social services jointly run by public bodies, private concerns and voluntary associations, or may leave the provision of certain services entirely to the voluntary sector. The "individuals and voluntary or other organisations" referred to in paragraph 2 include, the voluntary sector (non-governmental organisations and other associations), private individuals, and private firms. Moreover, in order to control the quality of services and ensure the rights of the users as well as the respect of human dignity and basic freedoms, an effective preventive and reparative supervisory system is required.

The Committee further recalls that its previous conclusion of non-conformity was specifically based on the absence of information concerning all the Regions and Communities in Belgium (only information concerning the Flemish Community and the French Community Commission in Brussels was provided).

The Government, referring to its previous description of the situation in Flanders, states that the Walloon Region, the French Community Commission in Brussels as well as the German-speaking Community all provide essentially the same range of social services based on the following key features: public programming and budgeting of social services with delivery of services being carried out by public, semi-public and private providers on the basis of a licensing system (agrément) and specific agreements (conventions). All providers are subject to supervision with regular inspections and with the possibility of sanctions in case of failings (for example withdrawal of licenses, cutting of funding or non-renewal of agreements). In all Regions and Communities provision is made for the participation in various forms of users of social services, for example through consultative bodies.

The Government also emphasises that legislation transposing the relevant EU directives ensures that social services are provided without discrimination irrespective of whether the provider is public or private.

The Committee takes note of the detailed information on social services in the Walloon Region and under the auspices of the French Community Commission in Brussels, including on organisational aspects, the different types of measures, the number of beneficiaries, the amount of spending and subsidies, quality norms and supervision mechanisms. The Committee asks that the next report contain similar information in respect of the German-speaking Community.

Finally, the Committee notes the information on the new Flemish Government Agreement for the period 2014-2019 which introduces a number of reforms also pertaining to social services. The Committee asks that the next report contain information about the implementation of this agreement and on the results achieved in encouraging individuals and voluntary or other organisations for the establishment of social services.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Belgium is in conformity with Article 14§2 of the Charter as regards the measures taken to encourage individuals and voluntary organisations to participate in the establishment and running of social services.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012

Paragraph 1 - Vocational training for persons with disabilities

The Committee notes that the information provided does not reply to its question (see Conclusions 2008) about the extent of mainstreaming in vocational education, including university education. Accordingly, it cannot be established that the situation in Belgium complies with Article 15§1 of the Charter.

Conclusion

The Committee concludes that the situation in Belgium is not in conformity with Article 15§1 of the Charter on the ground that it has not been established that people with disabilities are guaranteed an effective right to mainstream education and training.

Paragraph 2 - Employment of persons with disabilities

Employment of persons with disabilities

The Committee highlights that it needs to be systematically provided with up-to-date figures for all the country's entities concerning the total number of people with disabilities, including those of working age; the number of people with disabilities employed (in the ordinary market or in sheltered employment); the number of people with disabilities benefiting from employment promotion measures and the number of people with disabilities seeking employment or unemployed. In the absence of these figures, it cannot be established that the situation in Belgium is in conformity with Article 15§2 as regards access of persons with disabilities to employment.

Anti-discrimination legislation

The Committee, referring to its previous conclusion (Conclusions 2008) reiterates that it needs to know, for all the regions in the country: how reasonable accommodation is implemented in practice, whether there is any case law on the subject and whether this has prompted an increase in the employment of persons with disabilities in the open labour market; whether compensation is available for material and non-material damage to persons who have been discriminated against, whether legal and non-legal remedies are available to them and whether there is any case law on the subject.

Measures to encourage the employment of persons with disabilities

The Committee concludes that the situation in Belgium is not in conformity with Article 15§2 of the Charter on the ground that it has not been established that persons with disabilities are guaranteed effective equal access in employment.

Conclusion

The Committee concludes that the situation in Belgium is not in conformity with Article 15§2 of the Charter on the ground that it has not been established that persons with disabilities are guaranteed effective equal access in employment.

Paragraph 3 - Integration and participation of persons with disabilities in the life of the community

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion. The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Belgium under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

Article 16 - Right of the family to social, legal and economic protection – Conclusions 2011

Social protection of families

Housing for families

The removal and rent allowance (ADIL), furthermore, is a practical measure designed to combat insanitary housing and to help poorer sections of the population afford the move into suitable, sanitary housing. There is also a rent allowance to enable tenants on low incomes obtain access to decent housing. These housing allowances are subject to a length-of-residence requirement, thereby excluding certain migrants temporarily residing in Belgium. The Committee wishes to know what length of residence is required in order to qualify for these allowances.

Childcare facilities

In order to assess whether this provision matches the needs of families, the Committee asks for a detailed list of the number of places in crèches and day nurseries, by age group, and the number of applications for places turned down.

Family counselling services

Families must have access to appropriate social services, particularly when they are in difficulty. States are required in particular to set up family counselling services and services providing psychological support for children's education. The Committee asks for up-to-date information on family counselling services to be included in the next report.

Economic protection of families

Family benefits

The Committee recalls that it previously considered that the amount of benefits was sufficient. The Committee notes that basic family allowances have risen compared with the previous reference period. Consequently, it considers that the amount of family benefits is sufficient.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

The Committee asks if nationals of other non-EU/EEA states party residing or working lawfully in Belgium enjoy equal treatment with regard to the payment of family benefits.

Conclusion

Pending receipt of the information requested the Committee concludes that the situation in Belgium is in conformity with Article 16 of the Revised Charter.

Article 30 - Right to be protected against poverty and social exclusion – Conclusions 2013

The Committee takes note of the information contained in the report submitted by Belgium. The Committee refers to its statement of interpretation on Article 30 in the General Introduction to these Conclusions and invites the Government to take it into account when drawing up the next report.

Measuring poverty and social exclusion

The main indicator used to measure poverty is the relative poverty rate. This corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income. The Committee takes note of the figures provided in the report as to percentage of population at risk of poverty in 2010. It also notes from Eurostat that in 2011, 20.2% of population was at risk of poverty and social exclusion, which rate stands well below the average indicator of the EU countries (23.4%).

Approach to combating poverty and social exclusion

The Committee takes note of the approach and measures adopted by the different regions in Belgium. In the Flemish region, among others, the Decree of 21 March 2003 on Combating Poverty as well as the Action Plan of 9 July 2010 on Combating Poverty were adopted. The Committee takes note of the measures that followed as a result, as described in the report. The report states that in the Walloon region, the Plan for Social Cohesion in the Cities and Communes of Wallonia was adopted in 2009, the Permanent Housing Plan has been in place since 2003, the Walloon Network for Combating Poverty has been subsidised by the region since 2007 and the Mediation Centre of Travellers and Roma in Wallonia has been subsidised by the region since 2004 serving as a coordinating body for matters of accompanying and integration of these specific groups. In the Brussels region, the Policy Note for Combating Poverty (2009 – 2014) provides a common framework for Brussels policy on poverty. The Brussels Action Plan on Combating Poverty was adopted in 2010 and reflects 34 strategic objectives of the policy note.

Monitoring and assessment

The present report does not provide information as the monitoring and assessment of poverty and social exclusion. The Committee has previously found the situation to be in conformity. In absence of such information, it requests that updated information is included in the next report.

Follow-up to collective complaints

International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 62/2010, decision on the merits of 21 March 2012 The Committee refers to its decision on the merits and to Committee of Ministers Resolution ResChS(2013)8. In its decision the Committee found a breach of Article E 45 taken in conjunction with Article 30 on the ground that there was a lack of

a coordinated policy, in particular in housing matters, with regard to Travellers in order to prevent and combat poverty and social exclusion. In the Committee of Ministers Resolution the Government provided detailed information on a number of measures taken by the various federal and federated entities in response to the Committee's findings. Since the Committee's decision was taken outside the reference period follow-up cannot be undertaken in this conclusion. However, the facts of the complaint concern the reference period and for this reason the Committee concludes that there is a breach of Article E taken in conjunction with Article 30.

Conclusion

The Committee concludes that the situation in Belgium is not in conformity with Article 30 of the Charter on the ground that during the reference period there was a lack of a co-ordinated policy, in particular in housing matters, with regard to Travellers in order to prevent and combat poverty and social exclusion

European Code of Social Security

Resolution CM/ResCSS(2015)1 on the application of the European Code of Social Security and its Protocol by Belgium

(Period from 1 July 2013 to 30 June 2014)

(Adopted by the Committee of Ministers on 10 September 2015 at the 1234th meeting of the Ministers' Deputies)

[Link to adopted by the Committee of Ministers resolutions](#)

The Committee of Ministers notes:

I. concerning Part IV (Unemployment benefit), Article 19 of the Code, that in an opinion respecting the Royal Order of 23 July 2012 relating to the degressive nature of supplements to unemployment benefit, the Council of State challenged the broad power of delegation granted to the King on this subject. The Act of 25 April 2014 is intended to remedy this uncertainty in the short term and to initiate the preparation of basic legislation on unemployment insurance;

II. concerning Part VI (Employment injury benefit), Article 38 of the Code, Waiting period, the government's reply indicating that the sickness and invalidity insurance covers the waiting period of the first 15 days of temporary incapacity resulting from an occupational disease;

III. concerning Part V (Old-age benefit), Article 25 of the Code, Pension reform, the publication of the report of the Commission on Pension Reform 2010-40, which contains proposals for the structural reform of the pensions system with a view to increasing its financial sustainability and responding to changes in society. The report puts forward ten common principles on the basis of which the three existing statutory schemes will have to be reformed, including in particular: the maintenance of benefit levels through an extension of working careers; the calculation of pensions on the basis of income throughout the career; and the improvement of the minimum level of protection of pensioners by making it more proportional to the duration and intensity of work throughout their career;

IV. concerning Part VII (Family benefit), Reform of the family benefit scheme, the adoption of the General Act respecting family allowances, which entered into force in June 2014, the objective of which is to establish, prior to the transfer of competence to the federated entities in Belgium, of a single legislative framework for family allowances applicable to both employed persons and self-employed workers, who will henceforth receive allowances of the same amount;

V. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, that the reference wage for the calculation of periodical payments under Parts III, IV, V, VIII, IX and X of the Code was determined by the government in its 44th report in accordance with Article 65(6)(b) of the Code. Nevertheless, under certain Parts of the Code, the report refers to the wage of a skilled employee (of the 1st step), while under other Parts it takes as a basis for calculation the wage of a skilled worker in the construction industry (male over 21 years of age). Moreover, the calculations in the report are based either on these different reference wages or on the average gross wages of workers in industry (Part IV), which is also taken as the wage of an ordinary adult male labourer under Part VII. For Part VI, the report defines a skilled employee in accordance with Article 65(6)(a) taking as a reference the basic wage of a fully skilled worker in small-scale mechanical industry, which is substantively lower than that obtained by applying Article 65(6)(b) referred to above, even though it is calculated at the same hourly rate;

VI. concerning social security and poverty reduction, that, as a result of the existence of a minimum safety net, a minimum wage and social security benefits ensuring an adequate replacement rate, the percentage of the population in Belgium in a situation of poverty is lower than average in the European Union, with the exception of retirees, as their minimum pension is set just below the at-risk-of-poverty threshold (60 per cent of the equivalised median income); Finds that law and practice in Belgium continue to give full effect to all the Parts of the Code, as amended by the Protocol, subject to reviewing the method of determining the reference wage for the calculation of benefits;

Decides to invite the Government of Belgium:

I. concerning Part IV (Unemployment benefit), Article 19 of the Code, to indicate, in its next report, the action taken to follow up the above-mentioned initiative;

II. concerning Part V (Old-age benefit), Article 25 of the Code, Pension reform, to continue to provide information on the choices made in relation to the modification of pension schemes, while ensuring in particular that the measures adopted do not undermine the replacement rate of 45 per cent required by the Protocol after 30 years of contributions or employment;

III. concerning Part VII (Family benefit), Reform of the family benefit scheme, to indicate in future reports the impact that the above-mentioned transfer of competence to the Communities, which is to be finalised by 2020 at the latest, may have on the scheme and the total value of the family allowances granted in accordance with Part VII of the Code;

IV. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, to review, in its next report, the method of determining the reference wage in the light of the explanations provided in the above-mentioned "Technical note" which has been transmitted to the government, in which all the options envisaged by Articles 65 and 66 of the Code are calculated for the same reference period (2010) for which complete Eurostat data are available. The government is requested to confirm the option selected and to update the statistics used in the "Technical note" with an indication of the exact source of data for future reference;

V. concerning social security and poverty reduction, to provide information in its next report on the measures to combat poverty among the categories of the population and households that are worst affected, with an indication of the role assigned to the minimum guaranteed levels of income and social benefits. In so doing, the government may wish to refer to the figures in the above-mentioned "Technical note", with a view to updating and supplementing them by any element that it considers necessary.

CEACR 2015 Conclusions on the application of the European Code of Social Security and its Protocol by Belgium

As a result of its examination, the Committee finds that law and practice in Belgium continue to give full effect to all the Parts of the Code, as amended by the Protocol, subject to reviewing the method of determining the reference wage for the calculation of benefits.

Part II (Medical care). The Committee notes the information provided by the Government concerning the amendments made to the national legislation with regard to the sharing of beneficiaries in the cost of medical care. It notes in particular that, since 1 January 2015, ordinary insured persons automatically have to pay €12 for consultations with medical specialists and that beneficiaries of increased support pay €3, with the cost share rising for consultations at the end of the week or on a public holiday. In the case of supplementary fees for urgent dental care, cost sharing is €13 for ordinary insured persons and €1 for insured persons benefiting from increased support. Please indicate how these provisions comply with *Article 10(1) and (2)* of the Protocol to the Code which limits that the sharing by the beneficiary in the costs of medical care in case of a morbid condition shall not in general exceed 25 per cent (33.33 per cent for conservative dental care). Furthermore, the Committee notes that beneficiaries of the guaranteed income and of social assistance are entitled to the full reimbursement of medical expenses; that the Royal Order of 25 April 2014 (M.B. 18 July 2014), provides that beneficiaries who are resident and who benefit from increased support from health-care insurance are automatically exonerated from the payment of any contributions; and that as soon as the total of the cost sharing borne by the members of the household since the beginning of the year reaches one of the ceilings for cost sharing (based on the household income), the legislation requires mutual funds to automatically reimburse the cost sharing borne by all the members of the household until the end of the financial year. ***Please demonstrate that the ceilings for the sharing by beneficiaries in the cost of medical care as well as any other measures guarantee that the standard beneficiary and his/her family are not subject to hardship by reason of such cost sharing.***

Part III (Sickness benefit), Article 15; Part VII (Family benefit), Article 41; Part VIII (Maternity benefit), Article 48; and Part IX (Invalidity benefit), Article 55 of the Code. ***The Committee notes that, in contrast with salaried employees, who receive benefits calculated on the basis of their wages, the self-employed workers receive lump-sum benefits. Please specify the amounts and conditions for the provision to self-employed workers of sickness benefit, maternity benefit and invalidity benefit in light of the requirements of Parts III, VIII and IX and Article 66 of the Code, as amended by the Protocol.***

Part XI (Standards to be complied with by periodical payments), Articles 65 and 66. Reference wage. With reference to its previous comments, the Committee notes the Government's indication that it intends to review the methodology for the determination of the reference wage on the occasion of the next detailed report due in 2016. ***The Committee hopes that, in so doing, the Government will take into consideration the methodological elements provided in the ILO technical note.***

Article 74. Next detailed report on the application of the Code. (See above under Chapter III)

3. ILO Conventions

Social Security (Minimum Standards) Convention, 1952 (No. 102) – Belgium (*Ratification: 1959*)

Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

Part IV (Unemployment benefit), Article 20 of the Convention. Tightening of conditions with regard to suitable employment. The 42nd annual report on the application of the European Code of Social Security indicates that the Ministerial Order of 28 December 2011 amending sections 23 and 25 of the Ministerial Order of 26 November 1991 issuing procedures for the implementation of the regulations governing unemployment in the context of suitable employment (Belgian *Law Gazette* of 30 December 2011, 5th edition, p. 81.944) provides that the minimum distance for seeking employment will be increased from 25 to 60 kilometres, regardless of the travel time involved. In this regard, the Committee wishes to draw the Government's attention to the *Guide to the concept of suitable employment in the context of unemployment benefit* adopted in March 2009 by the Committee of Experts on social security responsible for supervision of the Code, guideline 5 of which concerning travel time stipulates that employment may be considered unsuitable if the distance between the home of the person concerned and the location of the proposed job is considered unreasonable. In order to determine whether this distance is reasonable or not, account must be taken of the time needed for the journey, available means of transport, the total time spent away from home, etc. ***In view of these recommendations, the Committee requests the Government to ensure that the departments responsible for the implementation of the new rule concerning the definition of suitable employment in the context of unemployment insurance are advised of the criteria adopted by the abovementioned guide reflecting the best practices in force in the European countries concerning travel time and distance from the job location which are considered to be reasonable.***

Article 69. System of penalties. With reference to its direct request of 2007, the Committee notes the Government's explanations concerning the application of *Article 23* of the Convention supplied in the 38th annual report on the application of the Code. As regards the system of penalties relating to unemployment insurance governed by *Article 69* of the Convention (section 68 of the Code), in view of the wide-ranging discretionary powers available to unemployment offices in evaluating the conduct of the unemployed person and the imposition of penalties, the Committee considered that it would be useful to issue a circular to directors of unemployment offices, drawing their attention to the rules established in *Article 69(d)* and *(f)* of the Convention. In its 39th annual report on the application of the Code in 2009, the Government expressed its intention to take the necessary steps to ensure that a request to this effect would be submitted to the National Employment Office. ***The Committee requests the Government to provide information on the follow-up action taken in relation to this initiative.***

Part VI (Employment injury benefit), Article 38. The Committee notes that the benefit for temporary incapacity for work following an industrial accident is due from the day following the start of the incapacity. In cases of occupational disease, however, the benefit is granted to the victim only if the temporary incapacity lasts at least 15 days. According to the 42nd annual report on the application of the Code, a person who is incapable of working in the event of sickness who does not receive benefit from the Fund for Occupational Diseases automatically comes within the scope of the sickness/invalidity insurance. ***The Committee requests the***

Government to explain whether the sickness/invalidity insurance will also cover the waiting period of the first fifteen days of temporary incapacity further to the occupational disease.

Convention 121 - Employment Injury Benefits Convention – Belgium (Ratification: 1970)

Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

Article 9(3) of the Convention. Grant of benefits throughout the contingency. According to the Government's report, benefit for temporary incapacity for work further to an industrial accident is due from the day following that of the start of the incapacity. In cases of occupational disease, however, benefit is granted to the victim only if the temporary incapacity lasts at least 15 days. In its 42nd report on the application of the European Code of Social Security the Government states in this regard that a person incapable of working in the event of sickness who does not receive benefit from the Fund for Occupational Diseases automatically comes within the scope of the sickness/invalidity insurance. The Committee requests the Government to explain whether the sickness/invalidity insurance also covers the waiting period of the first 15 days of temporary incapacity further to occupational disease.

4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

Council Recommendation of 14 July 2015 on the 2015 National Reform Programme of Belgium and delivering a Council opinion on the 2015 Stability Programme of Belgium (2015/C 272/07), (18.08.2015, C 272/24, Official Journal of the European Union).

[*Official Website of the European Commission*](#)

(9) The Federal Government has agreed a major pension reform aimed at reducing the gap between the effective and statutory retirement ages, and raising the latter. The early retirement age is to be raised further after 2016, to 63 years by 2018, with a minimum career-length requirement of 42 years from 2019 onwards. Over the longer term, the Federal Government has agreed to increase the statutory retirement age from 65 to 66 in 2025 and 67 in 2030. The gradual introduction of a credit-based pension system is planned, with adjustment mechanisms that respond to demographic or economic developments such as higher life expectancy or changes in the economic dependency ratio. A successful consolidation strategy offsetting the budgetary impact of an ageing population and safeguarding the long-term sustainability of public finances depends on the swift implementation of this pension reform. Considering that there are still few incentives to support the employability of older workers, these pension reforms would need to be accompanied by employment-support measures and labour market reforms conducive to active ageing.

(11) Structural problems characterising the Belgian labour market continue to result in a chronic underutilisation of labour and low aggregate employment and activity rates. Shortcomings relate mainly to the weak link between wages and productivity and to financial disincentives to work. Belgium also faces shortages of highly skilled workers and skills mismatches. The various governments, in their agreements and their reform programmes make reference to the need for stronger links between education, training and employment actors so as to improve linguistic, vocational and educational training and develop alternative training for students and the unemployed. Progress is slow, however. The impact of these structural factors

on certain groups in the labour market, such as the young and elderly unemployed and those from migrant backgrounds, is particularly pronounced.

HEREBY RECOMMENDS that Belgium take action in 2015 and 2016 to:

1. Achieve a fiscal adjustment of at least 0,6 % of GDP towards the medium-term budgetary objective in 2015 and in 2016. Use windfall gains to put the general government debt ratio on an appropriate downward path. Complement the pension reform by linking the statutory retirement age to life expectancy. Agree on an enforceable distribution of fiscal targets among all government levels.
2. Adopt and implement a comprehensive tax reform broadening the tax base, shifting the tax burden away from labour and removing inefficient tax expenditures.
3. Improve the functioning of the labour market by reducing financial disincentives to work, increasing labour market access for specific target groups and addressing skills shortages and mismatches.